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| UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - Riverside Division | |
| In re: DAN LOUIS BERNSTEIN AND PATRICIA AILEEN BERNSTEIN | CASE NO.: 6:12-bk-31622-WJ CHAPTER: 7 |
| Debtor(s). | NOTICE OF SALE OF ESTATE PROPERTY |

| | |
|---|-----------------------|
| Sale Date: September 2, 2014 | Time: 10:30 am |
| Location: Courtroom 304, 3420 Twelfth Street, Riverside CA 92501 | |

Type of Sale: ☒ Public ☐ Private **Last date to file objections:** August 19, 2014

Description of property to be sold: The real property located at 41554 Stonebridge, Big Bear, California.

Terms and conditions of sale: See attached Sale Motion

Proposed sale price: \$481,000 subject to the Bidding Procedures

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

Overbid procedure (if any): See attached Sale Motion

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Date: September 2, 2014
Time: 10:30 a.m.
Place: Courtroom 304
United States Bankruptcy Court
3420 Twelfth Street, Riverside, CA 92501

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

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Date: 8/12/2014

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Attorneys for Lynda T. Bui, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION

In re

**DAN LOUIS BERNSTEIN AND
PATRICIA AILEEN BERNSTEIN,**

Debtors.

Case No. 6:12-bk-31622-WJ

Chapter 7

CHAPTER 7 TRUSTEE'S MOTION FOR ORDER:

- (1) APPROVING THE SALE OF REAL
PROPERTY OF THE ESTATE FREE AND
CLEAR OF LIENS PURSUANT TO
BANKRUPTCY CODE §§ 363(b)(1) AND (f)
AND SUBJECT TO OVERBIDS, COMBINED
WITH NOTICE OF BIDDING PROCEDURES
AND REQUEST FOR APPROVAL OF THE
BIDDING PROCEDURES UTILIZED;**
- (2) APPROVING PAYMENT OF REAL ESTATE
COMMISSION;**
- (3) APPROVING EMPLOYMENT OF JACK
POPE AND PAY COMPENSATION TO JACK
POPE;**
- (4) APPROVING PAYMENT FOR
REIMBURSEMENT OF OUT OF POCKET
EXPENSES; AND**
- (5) GRANTING RELATED RELIEF;**

**MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATIONS OF LYNDIA T.
BUI AND JACK POPE IN SUPPORT THEREOF**

[Real Property located at 41554 Stonebridge, Big
Bear, CA]

Hearing

Date: September 2, 2014

Time: 10:30 a.m.

Place: Courtroom 304

3420 Twelfth Street, Riverside, CA 92501

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1 **TO THE HONORABLE WAYNE JOHNSON, UNITED STATES BANKRUPTCY**
2 **JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, THE DEBTOR AND ALL**
3 **INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:**

4 **I. INTRODUCTION**

5 Lynda T. Bui, the Chapter 7 trustee ("Trustee") for the bankruptcy estate ("Estate") of
6 Dan Louis Bernstein and Patricia Aileen Bernstein ("Debtors"), brings this Motion for Order: (1)
7 Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to
8 Bankruptcy Code §§ 363(b)(1) and (f) and Subject to Overbids, Combined With Notice of
9 Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving
10 Payment of Real Estate Commission; (3) Approving Employment of Jack Pope and Pay
11 Compensation to Jack Pope; (4) Approving Payment for Reimbursement of out of Pocket
12 Expenses; and (5) Granting Related Relief ("Sale Motion").

13 The real property located at 41554 Stonebridge, Big Bear, California ("Property") is a
14 single family residence with three bedrooms, two bathrooms, and 1,753 square feet of area and
15 includes the exclusive right to a boat slip on Big Bear Lake. The Trustee has received an offer to
16 purchase the Property for \$481,000, subject to overbids. The Trustee received four offers for the
17 Property and this represents the best offer that the Estate has received thus far for the Property.
18 After payment of all liens, costs of sale and taxes (including potential capital gains taxes to be
19 paid), the Trustee expects to net at least \$80,000 for the Estate. Further, in the event the
20 purchase price is increased by a successful overbid, the Estate will receive additional proceeds
21 and provide a greater distribution to creditors.

22 Therefore, the Trustee believes that good cause exists to grant the Sale Motion so the
23 Trustee does not lose this favorable business opportunity.

24 **II. RELEVANT FACTS**

25 **A. Case Commencement.**

26 On September 19, 2012, the Debtors filed a voluntary petition under Chapter 7 of the
27 Bankruptcy Code.

28 ///

Lynda T. Bui is the duly appointed, qualified and acting Chapter 7 trustee in the Debtors' bankruptcy case.

B. The Property to be Sold.

Among the assets of the Estate is the Property which is legally described as follows:¹

THE LAND REFERRED TO HEREIN BELOW IS SITUATED
IN THE CITY OF BIG BEAR LAKE, COUNTY OF SAN
BERNARDINO, STATE OF CALIFORNIA, AND IS
DESCRIBED AS FOLLOWS:

LOT 40 OF TRACT NO. 13966-1, IN THE CITY OF BIG BEAR
LAKE, COUNTY OF SAN BERNARDINO, STATE OF
CALIFORNIA, AS PER PLAT RECORDED IN BOOK 249,
PAGES 50-55, INCLUSIVE OF MAPS, IN THE OFFICE OF
THE COUNTY RECORDER OF SAID COUNTY.

APN 0309-351-18-0-000

The Property has a dock and boat slip, Slip No. 22, on Big Bear Lake. The homeowners' association related to the Property, Eagle Point Estates Homeowners Association ("HOA") owns the docks but the Property has an exclusive right to use the slip.

On May 6, 2014, the Trustee filed her Motion (docket number 131) for a Court order authorizing the employment of Richard A. Halderman, Jr. as real estate broker ("Broker") to assist the Trustee in the marketing and sale of the Property. No objection to the proposed employment of the Broker was filed and the Court authorized the Trustee to employ the Broker pursuant to an order entered on May 29, 2014.

The Broker reviewed the Property and believed that the Property had a fair market value of approximately \$475,000. The Property was listed for sale at \$480,000. The Property has been listed on the MLS and advertised for sale for almost two months. The Property has been shown multiple times and the Trustee has received four offers to purchase the Property but the Buyer's offer is the highest offer received thus far.

The Debtors did not list the Property on their Bankruptcy Schedules. As of the Petition Date, the Property was in the name of Lucky Ducky, LLC ("Lucky Ducky"), a company owned

¹ The legal description for the Property is believed to be accurate but may be corrected or updated by the title company in the transfer documents as necessary to complete the proposed sale transaction.

by the Debtors and their children. Pursuant to a settlement entered into among the Trustee and the Debtors, Lucky Ducky, Shawn Caster, Danielle Bernstein, Kristina Valdovinos, and Royce Copeman (collectively, the “Defendants”), Lucky Ducky agreed to transfer its interest in the Property to the Trustee upon Court approval of the settlement. The settlement was approved at a hearing held on April 8, 2014 and the Property has since been transferred to the Estate by Grant Deed. A true and correct copy of the recorded Grant Deed is attached to the Declaration of Lynda T. Bui (“Bui Declaration”) as **Exhibit “1.”**

Despite the recording of the Grant Deed to the Estate, the Preliminary Title Report continues to show title to the Property being held by the Debtors and their children. The Trustee is working through these issues with the Debtors and title and does not expect it will be an impediment to completing the sale described herein.

C. Liens and Encumbrances Against the Property and Their Proposed Treatment Through the Sale.

The following chart sets forth the liens and encumbrances against the Property as detailed in the Preliminary Title Report dated May 22 2014, a copy of which is attached as **Exhibit “2”** to the Bui Declaration:

| <u>Creditor</u> | <u>Description</u> | <u>Estimated Amount Owed</u> | <u>Treatment of Lien Through the Sale</u> |
|---|--|------------------------------|--|
| San Bernardino Co. Treasurer and Tax Collector | Real property taxes (estimated) | \$0 | All outstanding real property taxes will be paid through escrow on the sale transaction. |
| Ocwen Loan Servicing, LLC as assignee Recorded 1/5/2010 as Instrument No. 2010-0002771 | First priority deed of trust with a face amount of \$325,000 as shown on the Preliminary Title Report. | \$330,000 | This lien will be paid through escrow on the sale of the Property. Thus, this lien will be released, discharged and terminated at the close of escrow and the Property will be sold free and clear of this lien and the lien will <u>not</u> attach to the sale proceeds. |

All costs of sale including escrow fees and real estate commissions will be paid at closing. In addition, all outstanding real property taxes will be paid through the sale.

///

D. The Purchase Offer and Summary of the Sale Terms.

Through her Broker, the Trustee has received an offer from Paul Zamoyta and Jill Zamoyta (“Buyer”) to purchase the Property for \$481,000. The purchase price includes a deposit of \$14,400 (three percent of the purchase price). Attached as **Exhibit “3”** to the Bui Declaration is a true and correct copy of the Residential Purchase Agreement and Joint Escrow Instructions and Counter Offers and related addendum (collectively, the “Agreement”).

A summary (which is not meant to be a complete review of every provision) of the Agreement’s terms and highlights are discussed below.² The Agreement itself is the legally binding document the Trustee seeks approval of and, in the event of any inconsistency between the terms, provisions or effect of the Agreement and the description of it in these pleadings, the Agreement alone shall govern and not these pleadings or the descriptions herein.

In summary, the principal terms of the sale of the Property shall be as follows:

| | |
|--|--|
| Buyer: | Paul Zamoyta and Jill Zamoyta |
| Purchase Price: | \$481,000 subject to the Bidding Procedures set forth below. |
| Escrow: | Escrow holder will be A&A Escrow. Escrow is scheduled to close as soon as possible after entry of the Court order approving the sale transaction (“Approval Order”), but no later than the first business day after fourteen days following entry of the Approval Order. |
| Buyer’s Due Diligence and Cancellation Right | Buyer shall have ten calendar days from the date of Agreement to perform, complete, and satisfy all contingencies, inspections, investigations, tests and reviews of reports, and to complete all due diligence which the Buyer desires for this purchase of the Property, including, but not limited to and performing and completing any geological, soil, structural, environmental, or other tests, inspections, and investigations desired by Buyer. |
| Escrow, Title and Other Costs | All real property taxes and assessments for the current tax year shown in the current County Tax Bill shall be prorated between Seller and Buyer and charged as of the closing date to the applicable accounts of Seller and Buyer. The sale shall be free and clear of any homeowner’s association assessments and all real property taxes (other than those prorated as provided above) enforceable against the Property through the closing date of the sale. Escrow fees shall be split between Buyer and Seller in the manner customary in the County where the Property is located. Seller shall pay any real property transfer tax. Seller shall pay the cost of a Natural Hazard Disclosure Report, from a vendor selected by Seller, to be furnished to Buyer through escrow. Buyer shall pay and have sole responsibility for compliance with any requirements imposed on the Property or this sale by any governmental agency(ies), including compliance with any applicable governmental retrofit requirements. Buyer shall pay the cost of recording the deed. Buyer and Seller shall each pay their own expenses of every other type except as specifically provided in this Addendum. Seller shall not be responsible to pay any one-year home warranty plan. |

² The Trustee is referred to at times as the “Seller” in the summary.

| | | | | | | | | | |
|--|--|--------------|-------------------|---|----------|--|----------|------------------|----------|
| Bankruptcy Court Approval | The sale is subject to notice to creditors, approval by the Bankruptcy Court, and higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale. Payment of any and all real estate brokers' commissions is also subject to notice to creditors and approval by the Bankruptcy Court. | | | | | | | | |
| Real Estate Agent Commission ³ | <p>Through escrow on the sale of the Property, and subject to Court approval, the Trustee shall pay compensation for real estate agent services to the Buyer's agent and the Estate's agent. The agents shall equally split a commission in the amount of \$28,860 (6% of the purchase price) as follows:</p> <table><tr><td><u>Agent</u></td><td><u>Commission</u></td></tr><tr><td>Trustee's Broker Richard A. Halderman, Jr.</td><td>\$14,430</td></tr><tr><td>Buyer's Broker Sotheby's Realty – Wheeler Steffen</td><td>\$14,430</td></tr><tr><td>Total Commission</td><td>\$28,860</td></tr></table> | <u>Agent</u> | <u>Commission</u> | Trustee's Broker Richard A. Halderman, Jr. | \$14,430 | Buyer's Broker Sotheby's Realty – Wheeler Steffen | \$14,430 | Total Commission | \$28,860 |
| <u>Agent</u> | <u>Commission</u> | | | | | | | | |
| Trustee's Broker Richard A. Halderman, Jr. | \$14,430 | | | | | | | | |
| Buyer's Broker Sotheby's Realty – Wheeler Steffen | \$14,430 | | | | | | | | |
| Total Commission | \$28,860 | | | | | | | | |
| Purchase Without Warranties | Buyer acknowledges and agrees that, to the maximum extent permitted by law, the sale contemplated by this Addendum is made "as-is," "where-is," and "with all faults," except as specifically provided in this Addendum. Seller and Brokers and agents herein have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, Addendums, or guaranties of any kind or character whatsoever, whether express or implied, oral or written. | | | | | | | | |
| Trustee's Liability | The Buyer acknowledges that the Trustee is acting in his official capacity only. No personal liability shall be sought or enforced against the Trustee with regard to the Agreement, including any addendums to the Agreement, the Property, the sale of the Property, or the physical condition of the Property. In the event that the Trustee fails or refuses to complete the transaction for any reason, then the limit of the Trustee's liability is only to return any money paid to the Trustee by the Buyer, without deduction. Prior to and after the closing of escrow, the United States Bankruptcy Court shall have and retain the sole and exclusive jurisdiction over the Property and the Agreement; and all disputes arising before and after closing shall be resolved in said Court. Further, the Trustee has agreed that if a dispute arises, such dispute may initially be resolved through the Mediation Program pending in the United States Bankruptcy Court for the Central District of California. | | | | | | | | |
| Hold Harmless | The Buyer understands the terms and conditions of the entire purchase contact and holds the Estate and the realtors, brokers, agents, Lynda T. Bui, Trustee, and his attorneys including Shulman Hodges & Bastian LLP, agents and employees, harmless from any liabilities arising from this contact. All parties hereto further agree, jointly and severally, to pay on demand as well as to indemnify and hold Escrow harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of any kind or nature which in good faith, Escrow may incur or sustain in connection with or arising out of this Escrow and Escrow is hereby given a lien upon all the rights, titles and interest of each of the undersigned in all escrow papers and other property and monies deposited in this escrow, to protect the rights of escrow and to indemnify and reimburse Escrow under this Addendum. In the event this Escrow is not completed for any reason, Escrow is authorized to deduct and pay its fee, plus costs incurred from any funds on deposit. | | | | | | | | |

³ The Trustee reserves the right to request approval for a carve-out of 1% to the Estate if necessary.

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| Jurisdiction of the Bankruptcy Court | Any and all disputes which involve in any manner the Estate or Lynda T. Bui, Trustee, arising from the Agreement and/or its addendums or relating in any manner to the Property, shall be resolved only in the United States Bankruptcy Court, Central District of California. |
| Outstanding Real Property Taxes | To be paid by through escrow. |
| Free and Clear of Liens and Encumbrances | The Property shall be delivered to the Buyer free and clear of all liens and encumbrances. Any liens and interests against the Property that are not paid in full through escrow shall attach to the sale proceeds generated through the sale with the same force, effect, validity, and priority as such liens or interests had with respect to the Property prior to the sale. |
| Good Faith Finding | The proposed sale has been brought in good faith and has been negotiated on an "arms length" basis. The negotiations with the Buyer have resulted in an offer to sell the Estate's interest in the Property that will have substantial benefit. Accordingly, the sale is in good faith and should be approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on this Sale Motion. |
| Waiver of Rule 6004(h) | The Trustee requests that the Court waive the fourteen-day stay of the order approving the sale of the Property under Federal Rules of Bankruptcy Procedure 6004(h) such that the sale of the Property can close as soon as possible after entry of the Court order approving the Sale Motion and the Agreement. |

E. Employment of Jack Pope as Landscaper.

On or about May 30, 2014, the Trustee was contacted by the HOA which informed the Trustee that the HOA fees for the Property were past due and that there was severe deterioration of the landscaping and exterior of the Property that had to be fixed immediately. In fact, the HOA had set a hearing for June 6, 2014 to determine if the Property was a nuisance and if any further action would be taken. The Trustee was able to work out the issues with the HOA by both her Broker and Jack Pope visiting the Property and repairing certain items. In particular, Pope's Auctions & Antiques, Inc. ("Pope"), including Jack Pope and multiple of his employees, spent approximately eleven hours cleaning and repairing the Property in June 2014 and another eight hours in July 2014 so as to satisfy the concerns of the HOA and avoid further repercussions and fees asserted by the HOA. Pope will also continue to maintain the Property until the sale of the Property closes, as required by the HOA. The services performed by Pope include but are not limited to clean up and maintenance of the Property, removal of debris, stain fence, remedy issues with sprinkler system and gutters, pruning of vegetation. Pope received no retainer for the

services to be performed herein. Pope is requesting compensation as follows: \$80 an hour for services provided by Pope, \$30 per hour by services provided by Pope's main assistant, and \$15 per hour for other employees employed by Pope. Pope will incur approximately \$3,491.00 for the services provided. A true and correct copy of Pope's invoices is attached to the Bui Declaration as **Exhibit "4."**

To the best of the Trustee's knowledge, and as set forth in the Pope Declaration, Pope: (a) does not hold or represent any interest adverse to the Debtors, their creditors, or the Estate; (b) has no connections with the Debtors, the Debtors' creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, any person employed in the office of the United States Trustee, or any bankruptcy judge presiding in the United States Bankruptcy Court for the Central District of California; and (c) is a disinterested person as that term is defined in Bankruptcy Code Section 101 (14) and used in Bankruptcy Code Section 327(a).

The Trustee hereby requests the Court approve employment of Pope as landscaper and approve compensation to Pope in the approximate amount of \$3,491.00 from the proceeds of the sale of the Property directly from escrow.

F. Request for Reimbursement of Insurance Cost and Utilities.

The Trustee learned that the property insurance for the Property lapsed before the transfer to the Estate. As such, the Trustee immediately obtained property insurance, effective as of May 27, 2014 for three months for the sum of \$1,182.00 plus \$394.00 for any additional months.⁴ A true and correct copy of the invoice for the insurance obtained by the Trustee is attached to the Bui Declaration as **Exhibit "5."**

Finally, the Broker expended funds out of pocket to turn on the water and electricity and other utilities on the Property. The full amount spent by the Broker is not known at this time as the Broker will have to expend funds until the closing for the utilities and as such, the Trustee is requesting authority to pay the Broker up to the sum of \$300.00 for any out of pocket expenses

⁴ Since the insurance will expire on August 21, 2014, the Trustee will need to renew it for the number of days it will take to close escrow.

1 of the Broker for utilities. True and correct copies of the bills paid by the Broker thus far are
2 attached to the Bui Declaration as **Exhibit “6.”**

3 The Trustee believes all the out of pocket expenses discussed above were necessary in
4 order to preserve the Property for benefit of the Estate and its creditors and such expenses should
5 be reimbursed from the net proceeds of the sale.

6 **G. Tax Consequences of Sale.**

7 The Trustee consulted with her proposed accountants who informed her that with a cost
8 basis of \$279,000 (the original purchase price) for the Property, after factoring in the costs of
9 sale, there will be a capital gain of approximately \$158,000 resulting in federal capital gains tax
10 of approximately \$23,700 and California income tax of approximately \$10,000. The Trustee is
11 consulting with the Debtors to determine if there were improvements made to the Property which
12 would increase the cost basis for the Property and thereby, decrease the capital gain on the sale
13 and taxes thereon.

14 Even after payment of these taxes, there is substantial equity in the Property as shown
15 below.

16 **H. Notice of Bidding Procedures.**

17 The Trustee has determined that it would benefit the Estate to permit all interested parties
18 to receive information and bid for the Property instead of selling the Property to the Buyer on an
19 exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the
20 creditors of this Estate, the Trustee also seeks Court approval of the following bidding
21 procedures (“Bidding Procedures”):

22 1. Potential overbidders must bid an initial amount of at least \$5,000 over the
23 Purchase Price, or \$486,000. Minimum bid increments thereafter shall be \$1,000. The Trustee
24 shall have sole discretion in determining which overbid is the best for the Estate and will seek
approval from the Court of the same.

25 2. Overbids must be in writing and be received by the Trustee and the Trustee’s
26 counsel, Shulman Hodges & Bastian LLP to the attention of Melissa Davis Lowe on or before
4:00 p.m. (California time) on August 27, 2014.

27 3. Overbids must be accompanied by certified funds in the amount of \$15,000, made
28 payable to Lynda T. Bui, Chapter 7 Trustee.

4. The overbidder must also provide evidence of having sufficient specifically committed funds to complete the transaction or a lending commitment for the bid amount and such other documentation relevant to the bidder's ability to qualify as the purchaser of Property and ability to close the sale and immediately and unconditionally pay the winning bid purchase price at closing.

5. The overbidder must seek to acquire the Property on terms and conditions not less favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase the Property as set forth in the Agreement attached as **Exhibit 3** to the Bui Declaration including closing on the sale of the Property in the same time parameters as the Buyer.

6. All competing bids must acknowledge that the Property is being sold on an "AS IS" basis without warranties of any kind, expressed or implied, being given by the Seller, concerning the condition of the Property or the quality of the title thereto, or any other matters relating to the Property. The competing bid buyer must represent and warrant that he/she is purchasing the Property as a result of their own investigations and are not buying the Property pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction, or on the behalf of the Seller. The competing bidder must acknowledge that he/she has inspected the Property, and upon closing of Escrow governed by the Agreement, the Buyer forever waives, for himself/herself, their heirs, successors and assigns, all claims against the Debtor, their attorneys, agents and employees, the Debtor's Estate, Lynda T. Bui as Trustee and individually, and his attorneys, agents and employees, arising or which might otherwise arise in the future concerning the Property.

7. If overbids are received, the final bidding round for the Property shall be held at the hearing on the Sale Motion in order to allow all potential bidders the opportunity to overbid and purchase the Property. At the final bidding round, the Trustee or his counsel will, in the exercise of their business judgment and subject to Court approval, accept the bidder who has made the highest and best offer to purchase the Property, consistent with the Bidding Procedures ("Successful Bidder").

8. At the hearing on the Sale Motion, the Trustee will seek entry of an order, *inter alia*, authorizing and approving the sale of the Property to the Successful Bidder. The hearing on the Sale Motion may be adjourned or rescheduled without notice other than by an announcement of the adjourned date at the hearing on the Sale Motion.

9. In the event the Successful Bidder fails to close on the sale of the Property within the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's Deposit and will be released from her obligation to sell the Property to the Successful Bidder and the Trustee may then sell the Property to the first back-up bidder approved by the Court at the hearing on the Sale Motion ("First Back-Up Bidder").

10. In the event First Back-Up Bidder fails to close on the sale of the Property within the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's Deposit and will be released from her obligation to sell the Property to the First Back-Up Bidder and the Trustee may then sell the Property to the second back-up bidder approved by the Court at the hearing on the Sale Motion ("Second Back-Up Bidder").

III. LEGAL BASIS FOR THE RELIEF SOUGHT

A. The Court May Authorize the Sale When There is a Good Faith Purchaser.

The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b). The standards to establish are that there is a sound business purpose for the sale, that the sale is

1 in the best interests of the estate, i.e., the sale is for a fair and reasonable price, that there is
2 accurate and reasonable notice to creditors and that the sale is made in good faith. *In re Wilde*
3 *Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d
4 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale to one of
5 very few serious bidders where an asset has been shopped and a delay could jeopardize the
6 transaction. *See, e.g., In re Crowthers McCall Pattner, Inc.*, 114 B.R. 877, 885 (Bankr. S.D.N.Y.
7 1990) (extreme difficulty finding a buyer justified merger when buyer found). The Trustee's
8 proposed sale of Property meets the foregoing criteria.

9 1. Sound Business Purpose

10 The Ninth Circuit has adopted a flexible, case-by-case test to determine whether the
11 business purpose for a proposed sale justifies disposition of property of the estate under Section
12 363(b). *In re Walter*, 83 B.R. 14 (B.A.P. 9th Cir. 1988). In *Walter*, the Ninth Circuit, adopting
13 the reasoning of the Fifth Circuit in *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir.
14 1986), and the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983), set forth the
15 following standard to be applied under Bankruptcy Code Section 363(b):

16 Whether the proffered business justification is sufficient depends
17 on the case. As the Second Circuit held in *Lionel*, the bankruptcy
18 judge should consider all salient factors pertaining to the
19 proceeding and, accordingly, act to further the diverse interests of
20 the debtor, creditors and equity holders, alike. He might, for
21 example, look to such relevant factors as the proportionate value of
22 the assets to the estate as a whole, the amount of lapsed time since
23 the filing, the likelihood that a plan of reorganization will be
24 proposed and confirmed in the near future, the effect of the
25 proposed disposition on future plans of reorganization, the
26 proceeds to be obtained from the disposition vis-a-vis any
27 appraisals of the property, which of the alternatives of use, sale or
28 lease the proposal envisions and, most importantly perhaps,
whether the asset is increasingly or decreasing in value. This list is
not intended to be exclusive, but merely to provide guidance to the
bankruptcy judge.

25 *Walter*, 83 B.R. at 19-20 (quoting *Continental*, 780 F.2d at 1226).

26 Here, the facts surrounding the sale of the Property support the Trustee's business
27 decision that the proposed sale is in the best interest of the Estate and its creditors. Through the
28 sale, the Trustee expects to receive at least \$80,000 for the Estate to benefit creditors. The net

proceeds will benefit the Estate by providing funds for distribution to creditors. If the Sale Motion is not approved, then there will be a substantial loss to the Estate.

///

Furthermore, the Trustee believes that the proposed sale, subject to overbids, will be at fair market value because it is the best offer the Estate has received thus far for the Property. Given that the sale is subject to overbids, it is anticipated that the Trustee will receive the best and highest value for the Property and therefore the proposed sale price of the Property is fair and reasonable.

Therefore, the Trustee respectfully submits that, if this Court applies the good business reason standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

2. The Sale Serves the Best Interests of the Estate and Creditors

The Trustee believes that it would be in the best interest of the Estate and its creditors to sell the Property. The benefits to the Estate, as set forth above, are great due to the funds to be generated from the sale as shown below:

| | |
|---|--------------------------|
| Sales Price | \$481,000 |
| Costs of Sale (7% including commission) | (\$33,670) |
| 1 st Deed of Trust – Ocwen | (\$330,000) ⁵ |
| Real Property taxes | (\$0) |
| Due to HOA | (\$600) |
| Federal Capital gains taxes (estimated) | (\$20,000) |
| California income taxes (estimated) | (\$10,000) |
| Reimbursement of property insurance (estimated) | (\$1,576) |
| Reimbursement to Pope (for clean up per HOA requirements) | (\$3,491) |
| Reimbursement to Broker (estimated for utilities) | (\$300) |
| Net proceeds for Estate | \$81,363 |

If the Sale Motion is not approved, the Estate will not receive the sale proceeds and will likely lose the Buyer. The Trustee does not want to lose this beneficial business opportunity. Thus, the Trustee has made a business decision that it is in the best interest of the creditors of the Estate that this Sale Motion be approved.

⁵ The payoff statement submitted by Ocwen is approximately \$340,000 but the Trustee believes that approximately \$10,000 of that may be for charges that need not be compensated.

1 3. Accurate and Reasonable Notice

2 It is expected that notice of this Sale Motion will satisfy the requirements for accurate
3 and reasonable notice.

4 The notice requirements for sales are set forth in Federal Rules of Bankruptcy Procedure
5 (“FRBP”) 6004 and 2002. The notice must include the time and place of any public sale, the
6 terms and conditions of any private sale, the time fixed for filing on objections and a general
7 description of the property. Fed. R. Bankr. P. 2002(c)(1).

8 In compliance with FRBP 2002 and Bankruptcy Code Section 102(1), the Trustee shall
9 provide notice of the proposed sale of the Property and the Bidding Procedures to creditors and
10 parties in interest. The Notice of Sale Motion will include a summary of the terms and
11 conditions of the proposed sale, the time fixed for filing objections, and a general description of
12 the Property, including the Bidding Procedures. The Trustee submits that the notice
13 requirements will have been satisfied, thereby allowing creditors and parties in interest an
14 opportunity to object to the sale. Hence, no further notice should be necessary.

15 4. The Sale is Made in Good Faith

16 The proposed sale has been brought in good faith and has been negotiated on an “arms
17 length” basis. The court, in *Wilde Horse Enterprises*, set forth the factors in considering whether
18 a transaction is in good faith. The court stated:

19 ‘Good faith’ encompasses fair value, and further speaks to the
20 integrity of the transaction. Typical ‘bad faith’ or misconduct,
21 would include collusion between the seller and buyer, or any
22 attempt to take unfair advantage of other potential purchasers. . . .
And, with respect to making such determinations, the court and
creditors must be provided with sufficient information to allow
them to take a position on the proposed sale.

23 *Id.* at 842 (citations omitted).

24 In the present case, the negotiation of the proposed sale was an arms-length transaction.
25 The negotiations with the Buyer resulted in a sale price of \$481,000, over the listing price that
26 will have substantial benefit to the Estate. As set forth in the Notice of the Sale Motion, the
27 creditors will have been provided with sufficient notice of the sale. Accordingly, the sale is in
28

good faith and should be approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on this Sale Motion.

///

B. The Proposed Sale Should be Allowed Free and Clear of Liens.

Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate “free and clear of any interest in such property of an entity,” if any one of the following five conditions is met:

(1) applicable non-bankruptcy law permits a sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

11 U.S.C. § 363(f).

Section 363(f) is written in the disjunctive and thus only one of the enumerated conditions needs to be satisfied for Court approval to be appropriate.

Here, the sales price is greater than the aggregate amount of all liens against the Property as shown above. As such, the Property can be sold free and clear of all liens pursuant to Section 363(f)(3).

C. The Court has the Authority to Waive the Fourteen-Day Stay of Sale.

Federal Rule of Bankruptcy Procedure 6004(h) provides that “[a]n order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the Court orders otherwise.” Fed. Rule Bankr. P. 6004(h).

The Trustee desires to close the sale of the Property as soon as practicable after entry of an order approving the sale. Accordingly, the Trustee requests that the Court, in the discretion provided it under Federal Rule of Bankruptcy Procedure 6004(h), waive the fourteen-day stay requirement.

1 **D. The Court has the Authority to Approve the Bidding Procedures.**

2 Implementation of the Bidding Procedures is an action outside of the ordinary course of
3 the business. Bankruptcy Code Section 363(b)(1) provides that a trustee “after notice and
4 hearing, may use, sell or lease, other than in the ordinary course of business, property of the
5 estate.” 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code Section 105(a), “[t]he
6 court may issue any order, process, or judgment that is necessary or appropriate to carry out the
7 provisions of this title.” 11 U.S.C. § 105(a). Thus, pursuant to Bankruptcy Code sections
8 363(b)(1) and 105(a), this Court may authorize the implementation of overbidding procedures.

9 The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a
10 bankruptcy court to issue orders determining the terms and conditions for overbids with respect
11 to a sale of estate assets. *In re Crown Corporation*, 679 F.2d 774 (9th Cir. 1982). The *Crown*
12 *Corporation* court entered an order specifying the minimum consideration required for an
13 overbid as well as the particular contractual terms required to be offered by overbidders. *Id.* at
14 777. The *Crown Corporation* decision also approves an order requiring and setting the amount
15 of potential overbidder’s deposits and authorized courts to determine the disposition of such
16 deposits. *Id.* While the discussion is not extensive, the *Crown Corporation* decision recognizes
17 the authority of bankruptcy courts to order the implementation of bidding procedures such as
18 those proposed in the present case.

19 1. **The Overbid Procedures are Untainted by Self-Dealing**

20 The Bidding Procedures have been proposed in good faith and have been negotiated on
21 an “arms length” basis. Therefore, there is no prospective taint in dealings between Trustee and
22 any potential bidders.

23 2. **The Overbid Procedures Encourage Bidding and are Fair in Amount**

24 The Bidding Procedures are designed to encourage, not hamper bidding and are
25 reasonable under the circumstances. The Bidding Procedures are intended to provide potential
26 overbidders with adequate information to make an informed decision as to the amount of their
27 bid and the validity of their bid.
28

3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of the
Estate

The proposed Bidding Procedures serve the Estate in several ways. First, the Bidding Procedures themselves are fair, reasonable and productive; they will permit the Trustee to conduct an orderly sale and obtain the best possible price on the best possible terms for the Property.

The Bidding Procedures will ensure that all bids will be comparable. The Trustee will determine which bid is the highest and best for the Estate. The comparability requirement of the Bidding Procedures will make it possible to accomplish this task.

The Bidding Procedures will help the Trustee to obtain the highest and best possible price for the Property. The Bidding Procedures institute minimum overbid increments which the Trustee believes are reasonable. Thus, the Trustee will be able to obtain substantial benefit for this Estate from the sale of the Property from competing bids.

The Bidding Procedures require that potential bidders demonstrate their capacity to complete the transaction. It would be a serious loss to the Estate if it surrendered its opportunity to sell the Property to one buyer in favor of a competing bidder only to discover the successful bidder incapable of consummating the transaction. Thus, requiring bidders to qualify as qualified bidders will protect the Estate from such a loss.

The most important benefit of the Bidding Procedures to the Estate is that their implementation will enable the consummation of the proposed sale. The proposed sale will be the best way to obtain the maximum and most expedient recovery for creditors of this Estate. Implementation of the Bidding Procedures is an essential component of consummating the sale of the Property and maximizing the value of the Property for the Estate and creditors.

The Bidding Procedures proposed by the Trustee are fair and provide for a “level playing field” for all prospective bidders with respect to the Property. The proposed Bidding Procedures establish a reasonable but expeditious timeline for allowing the Trustee to give notice of the proposed sale and qualified bidders to conduct reasonable due diligence and submit competing offers for the Property, thereby potentially generating additional value for the Property.

Furthermore, the notice that the Trustee proposes to provide to creditors and parties in interest in connection with the Bidding Procedures and Sale Motion is designed to attract the most interest in the acquisition of the Property and is sufficient under the circumstances of this case. Thus, approval of the Bidding Procedures will serve the best interests of the Estate and its creditors.

E. Employment of Pope is Proper.

Section 327 of the Bankruptcy Code, which governs employment of professional persons, provides, in pertinent part, as follows:

. . . the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 327(a).

Section 328(a) of the Bankruptcy Code provides that any agreement or arrangement concerning the employment or compensation of a professional is subject to court review and approval and that such arrangement must be reasonable. 11 U.S.C. § 328(a). Rule 2014 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") mandates that a professional seeking approval of its employment by the bankruptcy estate must disclose ". . . any proposed arrangement for compensation . . ." and ". . . all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, [and] the United States Trustee"

The disclosure requirements of Section 328(a) and Rule 2014 of the Bankruptcy Rules are applicable to those professionals eligible for employment under Section 327(a). Specifically, Section 327(a) requires that any professional person employed by the trustee be free of interests which are adverse to the estate, and be "disinterested."

"Disinterested persons" are defined in Section 101(14) as follows:

disinterested person" means [a] person that –

(A) is not a creditor, an equity security holder, or an insider

. . .

(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor . . . or for any other reason.

11 U.S.C. §101(14).

All facts pertinent to a court's determination of whether the professional is disinterested or holds an interest adverse to the estate must be disclosed. The professional is required to make a full, candid and complete disclosure in its application for employment. *See, In re Lotus Properties LP*, 200 B.R. 338, 391 (Bankr. C.D. Cal. 1996) (*citing In re Park Helena Corp.*, 63 F.3d 877, 880-82 (9th Cir. 1995)).

Here, Pope has complied with the disclosure requirements set forth in the Bankruptcy Code and the Bankruptcy Rules. By the Pope Declaration, Pope has provided full and complete disclosure in order to demonstrate that all requirements imposed by the Bankruptcy Code and the Bankruptcy Rules for employment in this case have been satisfied.

Based on these disclosures, Pope currently holds no interest that is materially adverse to the interests of the Estate. Pope satisfies both the disclosure and the "disinterestedness" requirements for employment in this case. Therefore, this Court may authorize the proposed employment of the Pope as landscaper for the Trustee related to the Property pursuant to Bankruptcy Code section 327(a).

Equity requires that the Court authorize the employment of Pope and compensation to Pope in the approximate amount of \$3,491.00 directly from escrow on the sale of the Property.

F. Request for Payment of Real Estate Commission.

Bankruptcy Code Section 327 allows, with court approval, for the trustee to employ professional persons, "that do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a). By an Order entered on May 29, 2014, the Trustee was authorized to employ the Broker to assist the Trustee in the marketing and sale of the Property.

Bankruptcy Code Section 328 allows employment of a professional person under section 327 "on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." 11 U.S.C. §

328(a) (emphasis added). Through this Sale Motion, as provided in the Agreement, the Trustee seeks authorization to pay a real estate broker commission in the amount of 6%⁶ of the purchase price. Through escrow on the sale of the Property, and subject to Bankruptcy Court approval, the Trustee shall pay a real estate broker's commission as follows:

| <u>Agent</u> | <u>Commission</u> |
|---|-------------------|
| Trustee's Broker Richard A. Halderman, Jr. | \$14,430 |
| Buyer's Broker Sotheby's Realty | \$14,430 |
| Total Commission | \$28,860 |

IV. CONCLUSION

WHEREFORE, based upon the foregoing, the Trustee respectfully submits that good cause exists for granting the Sale Motion and requests that the Court enter an order as follows:

1. Approving the Bidding Procedures set forth above for the sale of the Property.
2. Authorizing the Trustee to sell the Property to the Buyer (or Successful Bidder) pursuant to the terms and conditions as set forth in the Agreement attached as **Exhibit 3** to the Bui Declaration.
3. Authorizing the sale of the Property free and clear of liens.
4. Authorizing the Trustee to sign any and all documents convenient and necessary in pursuit of the sale as set forth above, including but not limited to any and all conveyances contemplated by the Agreement attached as **Exhibit 3** to the Bui Declaration.
5. Approving the payment of the real estate commission in the total amount not to exceed 6% of the purchase price.
6. Authorizing the Trustee to pay the following from the proceeds of the sale of the Property through escrow: Ocwen in the estimated amount of \$330,000; all real estate taxes owed to the San Bernardino County Tax Collector, believed to be approximately \$0; HOA in the estimated amount of \$600; and all reasonable and customary escrow fees, recording fees, title insurance premiums, and closing costs necessary and proper to conclude the sale of the Property.

⁶ Notwithstanding, the Trustee reserves the right to request a carve-out of the commission if necessary to ensure that the Estate nets a significant amount from the sale of this property.

7. Authorizing the Trustee to pay the following from the net proceeds of the sale without further Court order: (1) estimated \$1,576.00 to the Estate for the cost of property insurance; (2) approximately \$3,491.00 to Pope; and (3) up to \$300.00 to the Broker.

8. A determination by the Court that the Buyer is in good faith pursuant to Bankruptcy Code Section 363(m).

9. Waiving the fourteen day stay of the order approving the sale of the Property under Federal Rules of Bankruptcy Procedure 6004(h).

10. For such other and further relief as the Court deems just and proper under the circumstances of this case.

Respectfully submitted,

Dated: August 12, 2014

SHULMAN HODGES & BASTIAN LLP

/s/ Melissa Davis Lowe

Leonard M. Shulman
Melissa Davis Lowe
Attorneys for Lynda T. Bui, Chapter 7 Trustee for
the bankruptcy estate of Dan and Patricia Bernstein

DECLARATION OF LYNDA T. BUI

I, Lynda T. Bui, declare:

1. I am the duly appointed, qualified and acting Chapter 7 Trustee for the bankruptcy estate of In re Dan Louis Bernstein and Patricia Aileen Bernstein ("Debtor"). I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would competently testify thereto.

2. I make this Declaration in support of my Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code § 353(b)(1) and (f) and Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission; (3) Approving Employment of Jack Pope and Pay Compensation to Jack Pope; (4) Approving Payment for Reimbursement for Out of Pocket Expenses; and (5) Granting Related Relief ("Sale Motion"). Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Sale Motion.

3. On May 6, 2014, I filed a Motion (docket number 131) for a Court order authorizing the employment of Richard A. Halderman, Jr. as real estate broker (collectively "Broker") to assist me in the marketing and sale of the Property. No objection to the proposed employment of the Broker was filed and the Court authorized me to employ the Broker pursuant to an order entered on May 29, 2014.

4. The Broker reviewed the Property and believed that the Property had a fair market value of approximately \$475,000. The Property was then listed for sale at \$480,000. The Property has been listed on the MLS and advertised for sale for almost two months. The Property has been shown multiple times. I have received four offers to purchase the Property but the Buyer's offer is the highest offer received thus far.

5. The Debtors did not list the Property on their Bankruptcy Schedules. As of the Petition Date, the Property was in the name of Lucky Ducky, a company owned by the Debtors and their children. Pursuant to a settlement entered into among the Trustee and the Debtors, Lucky Ducky, Shawn Caster, Danielle Bernstein, Kristina Valdovinos, and Royce Copeman,

1 Lucky Ducky agreed to transfer its interest in the Property to the Estate upon Court approval of
2 the settlement. The settlement was approved at a hearing held on April 8, 2014 and the Property
3 has since been transferred to the Estate by Grant Deed. A true and correct copy of the recorded
4 Grant Deed is attached hereto as **Exhibit “1.”**

5 6. The Motion sets forth the proposed treatment of all the liens and encumbrances
6 against the Property as detailed in Preliminary Title Report dated May 22, 2014, a true and correct
7 copy of which is attached hereto as **Exhibit “2.”**

8 7. Through my Broker, I have received an offer from Paul Zamoyta and Jill Zamoyta
9 (“Buyer”) to purchase the Property for \$481,000. The purchase price includes a deposit of three
10 percent of the purchase price. Attached hereto as **Exhibit “3”** is a true and correct copy of the
11 Agreement.

12 8. The Buyer’s offer for the purchase of the Property for \$481,000 is the best offer
13 that the Estate has received thus far. I am seeking to sell the Estate’s interest in the Property free
14 and clear of all liens, claims, and encumbrances and subject to the Bidding Procedures described
15 in the Sale Motion.

16 9. On or about May 30, 2014, I was contacted by the HOA which informed me that
17 the HOA fees for the Property were past due and that there was severe deterioration of the
18 landscaping and exterior of the Property. In fact, the HOA had called a hearing set for June 6,
19 2014 to determine if the Property was a nuisance and if any further action would be taken. I was
20 able to work out the issues with the HOA by both the Broker and Jack Pope visiting the Property
21 and repairing certain items. In particular, Jack Pope and his employees spent approximately
22 eleven hours in June 2014, another eight hours in July 2014 cleaning and repairing the Property,
23 and will provide ongoing maintenance through the sale of the Property closes so as to satisfy the
24 concerns of the HOA and avoid further repercussions and fees asserted by the HOA, incurring a
25 total of approximately \$3,491.00 for services provided. A true and correct copy of Pope’s invoice
26 is attached hereto as **Exhibit “4.”**

27 10. I learned that the property insurance for the Property lapsed prior to the transfer to
28 the Estate as part of the settlement. Accordingly, I obtained property insurance effective as of

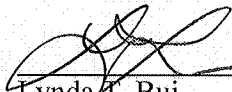
1 May 27, 2014 for three months for the sum of \$1,182.00 plus an additional \$394.00 for each
2 month thereafter. A true and correct copy of the invoice for the insurance is attached hereto as
3 **Exhibit "5."** Since the policy expires on August 21, 2014, I will need to purchase additional
4 insurance to cover the time until escrow closes.

5 11. Finally, the Broker expended funds out of pocket to turn on the water and
6 electricity and other utilities on the Property. The full amount spent by the Broker is not known at
7 this time as the Broker will have to expend funds until the closing for the utilities and as such, I
8 am requesting authority to pay the Broker up to the sum of \$300.00 for any out of pocket
9 expenses of the Broker for utilities. True and correct copies of the bills paid by the Broker thus
10 far are attached hereto as **Exhibit "6."**

11 12. For the reasons set forth in the Sale Motion and this Declaration, I respectfully
12 request that the Court grant the Sale Motion so that I do not lose this favorable business
13 opportunity to net a substantial amount of money for the Estate.

14 I declare under penalty of perjury under the laws of the United States of America that the
15 foregoing is true and correct.

16 Executed on August 12, 2014, at Irvine, California.

17 
18 Lynda T. Bui

DECLARATION OF JACK POPE

I, Jack Pope, declare:

1. The matters stated herein are true and correct and within my personal knowledge. If called as a witness, I could and would competently testify thereto. I am a duly licensed public auctioneer and the President of Pope's Auctions & Antiques, Inc. ("Pope") with offices located at 55898 Santa Fe Trail, Yucca Valley, California 92284; telephone number (760) 365-7887.

2. I make this Declaration in support of the Chapter 7 Trustee's Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code § 353(b)(1) and (f) and Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission; (3) Approving Employment of Jack Pope and Pay Compensation to Jack Pope; (4) Approving Payment for Reimbursement for Out of Pocket Expenses; and (5) Granting Related Relief ("Sale Motion"). Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Sale Motion. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Sale Motion.

3. In June 2014, the Trustee requested that I visit the Property and remedy multiple maintenance and landscaping issues as asserted by the HOA. The services performed by Pope include but are not limited to clean up and maintenance of the Property, removal of debris, stain fence, remedy issues with sprinkler system and gutters, pruning of vegetation. Pope received no retainer for the services to be performed herein. Pope is requesting compensation as follows: \$80 an hour for services provided by Pope, \$30 per hour by services provided by Pope's main assistant, and \$15 per hour for other employees employed by Pope.

4. Pope understands and agrees that the proposed compensation arrangement between the Trustee and Pope as landscaper will be subject to the provisions of Bankruptcy Code Section 328, which authorizes this Court to allow compensation different from that provided herein if those fee arrangements appear, in retrospect, to have been improvident in light of developments unanticipated at the time of the fixing of such terms and conditions.

5. Pope has no pre-petition claim against the Debtors' Estate.

- 1 6. Pope has not received a retainer for the services to be performed herein.
- 2 7. To the best of my knowledge, Pope and its principals, employees, agents and I:
- 3 a. do not hold or represent any interest adverse to the Trustee, the Debtors,
- 4 Debtors' creditors and the Estate;
- 5 b. have no connections with the Debtors, the Debtors' creditors, any other party
- 6 in interest, their respective attorneys and accountants, the United States Trustee, any person
- 7 employed in the office of the United States Trustee, or any bankruptcy judge prosiding in the
- 8 United States Bankruptcy Court for the Central District of California;
- 9 c. are "disinterested" as that term is defined in Bankruptcy Code Section 101
- 10 (14) and used in Bankruptcy Code Section 327(a) because I:
- 11 i. am not a creditor or an insider;
- 12 ii. am not and was not an investment banker for any outstanding
- 13 security of the Debtors;
- 14 iii. have not been, within three years before the date of the filing of the
- 15 Debtors' petition, an investment banker for the security of the Debtors or an attorney for such an
- 16 investment banker in connection with the offer, sale or issuance of a security of the Debtors;
- 17 iv. am not and was not, within two years before the date of the filing
- 18 of the Debtors' petition, a director, officer or employee of the Debtors or of an investment banker
- 19 specified in subparagraphs (b) or (c) of this paragraph 14; and
- 20 v. do not have an interest materially adverse to the interest of the
- 21 Estate or any class of creditors or equity security holders, by reason of any direct or indirect
- 22 relationship to, connection with, or interest in the Debtors as an investment banker as specified in
- 23 subparagraphs (b) or (c) of this paragraph 7, or for any other reason.

24 I declare under penalty of perjury under the laws of the United States of America that the

25 foregoing is true and correct.

26 Executed on August 12 2014, at San Bernardino, California.

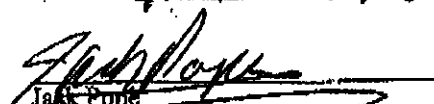
27 
28 Jack Pope

EXHIBIT 1

Recorded in Official Records, County of San Bernardino

6/12/2014
10:57 AM
NC



DENNIS DRAEGER
ASSESSOR - RECORDER - CLERK

P Counter

Doc#: 2014-0211439



Titles: 1 Pages: 1

| | |
|-------|---------|
| Fees | 15.00 |
| Taxes | 0.00 |
| Other | 0.00 |
| PAID | \$15.00 |

4585-000

RECORDING REQUESTED BY
Nick Alessandro

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENT TO:

Name SHULMAN HODGES & BASTIAN LLP (MDL)

Street 3750 University Avenue

Address Suite 670

City & Riverside, CA 92501

State (949) 340-3400

Title Order No. Escrow No.

T 355 Legal (2-94)

Grant Deed

SPACE ABOVE THIS LINE FOR RECORDER'S USE

THE UNDERSIGNED GRANTOR(S) DECLARE(S) Exempt from documentary transfer tax pursuant to R&T 11923(a)(1) and no consideration

DOCUMENTARY TRANSFER TAX IS \$ -0- no consideration for transfer

☐ unincorporated area ☒ City of BIG BEAR LAKE

Parcel No. 0309-351-18

☐ computed on full value of interest or property conveyed, or

☐ computed on full value less value of liens or encumbrances remaining at time of sale, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
LUCKY DUCKY, LLC, a California limited liability company

hereby GRANT(S) to Lynda T. Bui, solely in her capacity as the duly appointed Chapter 7 Trustee for the bankruptcy estate of DAN LOUIS BERNSTEIN and PATRICIA AILEEN BERNSTEIN (United States Bankruptcy Court, Central District of California, Riverside Division, Case No: 6:12-bk-31622-WJ)

the following described real property in the city of BIG BEAR LAKE
county of SAN BERNARDINO, state of California: LOT 40 OF TRACT NO. 13966-1, AS PER PLAT
RECORDED IN BOOK 249 OF MAPS, PAGES 50-55, INCLUSIVE, RECORDS OF SAID COUNTY.

41554 Stone Bridge Rd
Big Bear Lake, CA 92315

Dated 6-2-2014

STATE OF CALIFORNIA } S.S.
COUNTY OF SAN DIEGO
On 06/02/2014 before me,
KIRAN B. MISRA, NOTARY PUBLIC
personally appeared KRISTINA VALDOVINOS

LUCKY DUCKY, LLC, a California limited liability company

BY: Waldovinos
NAME: Kristina Valdovinos
TITLE: Managing Partner

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature Kiran B. Misra



(This area for notarial seal)

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE; IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

Lynda T. Bui, Chapter 7 Trustee
Name

3750 University Avenue, Suite 670
Street Address

Riverside, CA 92501
City & State

CTC-13

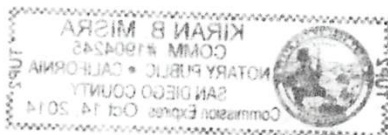


EXHIBIT 2



Fidelity National Title Company

19000 MacArthur Blvd., Suite 300, Irvine, CA 92612
Phone: (949) 788-2800 • Fax: (949) 341-0251

PRELIMINARY REPORT

Title Officer: **Debbie Tognetti**
Phone: (949) 788-2825
Fax: (949) 341-0251
Email: debbie.tognetti@fnf.com

ORDER NO.: 00064707-997-OC1-DT

LOAN NO.:

Lido Pacific
225 N. Broadway
Santa Ana, CA 99999

ATTN: Richard
YOUR REF:

PROPERTY: 41554 Stone Bridge Road, Big Bear Lake, CA

EFFECTIVE DATE: May 22, 2014 at 7:30 a.m.

The form of policy or policies of title insurance contemplated by this report is:

ALTA Homeowner's Policy (2-3-10)
ALTA Extended Coverage Loan Policy (6-17-06)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

a Fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Dan L. Bernstein and Patricia A. Bernstein, husband and wife, as to 50%; Kristina Valdovinos, a married woman as her sole and separate property, as to 20%; Danielle Bernstein, a married woman as her sole and separate property, as to 20%; and Shawn Caster, as a single man, as to 10%; all as tenants in common, subject to item no. 10

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

See Exhibit A attached hereto and made a part hereof.

DT/mk2 May 31, 2014

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 40 OF TRACT NO. 13966-1, IN THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 249, PAGES 50-55, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0309-351-18-0-000

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2014-2015.
2. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy.

Note: If said supplementals (if any) are not posted prior to the date of closing, this company assumes no liability for payment thereof.

3. Reservations contained in the Patent from the United States of America, as follows:

The signatures of the governing body of the United States of America, the Owners of accrued water rights and rights to ditches and reservoirs as contained in the Patent from the United States of America, recorded in Book "H" of Patents, Page 64, records of San Bernardino County, have been omitted under the Provisions of Section 06436 of the Subdivision Map Act. Their interest cannot ripen into a fee, said rights and restrictions cover the entire area being subdivided.

-
4. Recitals as shown on the recorded Map of Said Tract, which among other things states.

The right to extend and maintain drainage structures 2 to 1 excavation slopes and 2 to 1 embankment slopes, on certain lot areas where said slopes embankment or drainage structures extend beyond the limits of the dedicated rights of way included within said Tract wherever required for the construction and maintenance of roadbeds occupying the full width of said slopes; also the privilege and right to plant and maintain grass, plants and/or trees on said slopes for soil erosion protection of same. Said rights for lateral support shall be superior to the right of the grantors and their heirs and assigns.

5. A notice that said Land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document

Recording Date: May 19, 1983
Recording No.: Instrument No. 1983-109717, of Official Records
Redevelopment Agency: The Redevelopment Agency of the City of Big Bear Lake

6. The matters set forth in the document shown below which, among other things, contains or provides for: certain easements; liens and the subordination thereof; provisions relating to partition; restrictions on severability of component parts; and covenants, conditions and restrictions, but omitting, except to the extent that said covenant or restriction is controlled or permitted by any applicable federal or state law, any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, medical condition, national origin, source of income, or ancestry.

Entitled: Covenants, Conditions and Restrictions
Recording Date: August 18, 1992
Recording No.: Instrument No. 1992-344188, of Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

Said instrument also provides for the levy of assessments, the lien of which is stated to be subordinate to the lien of a first mortgage or first deed of trust made in good faith and for value.

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

EXCEPTIONS
(Continued)

An easement for the hereinafter set forth specific purpose and incidental purposes, as set forth in the document above mentioned.

Said easement is for underground purposes for public utilities, and cannot be located from the record.

Liens and charges for upkeep and maintenance as set forth in the above-mentioned declaration, payable to Eagle Point Estates.

7. Notice that no transfer of title shall be made until requirements for transfer of membership in the Point Owners' Association have been complied with and any unpaid assessments and transfer fees have been paid.

Owners Association: Point Homeowners Association
Recording Date: August 18, 1992
Recording No.: Instrument No. 92-344188, of Official Records

8. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$325,000.00
Dated: December 3, 2009
Trustor: Dan Bernstein and Patricia A. Bernstein, husband and wife as joint tenants
Trustee: First American Title
Beneficiary: MERS, strictly as Nominee for Residential Wholesale Mortgage Inc. a California Corporation
Loan No.: 602549231
Recording Date: January 5, 2010
Recording No.: Instrument No. 2010-0002771 of Official Records.

and Re-Recording Date: January 4, 2011
and Re-Recording No.: 2011-0005339 Of official records

Assignment of the beneficial interest under said deed of trust which names:

Assignee: Ocwen Loan Servicing, LLC
Recording Date: November 12, 2013
Recording No.: Instrument No. 2013-0483427, of Official Records

An assignment which purports to transfer the beneficial interest under said deed of trust. At the date thereof, the named assignor was not the record holder of the beneficial interest.

Assignor: Mortgage Electronic Registration Systems, Inc.
Assignee: Ocwen Loan Servicing, LLC
Recording Date: January 6, 2014
Recording No.: Instrument No. 2014-0012741, of Official Records.

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OCI-DT

EXCEPTIONS
(Continued)

9. A pending Court Action as disclosed by a recorded notice:

Plaintiff: Hallmark Marketing Corporation, a Delaware Corporation
Defendant: Dan Bernstein aka Dan L. Bernstein, Patti Bernstein aka Patti A. Bernstein, Personal Expressions, Inc., Lucky Ducky, LLC, Shawn Caster, and Does 1 Through 100
County: San Bernardino
Court: Superior Court of California County of San Diego
Case No.: 37-2012-00098396-Cu-CI-CTL
Nature of Action: Affecting to the real property
Recorded: August 9, 2012
Recording No.: Instrument No. 2012-0320553, of Official Records

10. A Deed:

From: Dan L. Bernstein and Patricia A. Bernstein, husband and wife, as to 50%; Kristina Valdovinos, a married woman as her sole and separate property, as to 20%; Danielle Bernstein, a married woman as her sole and separate property, as to 20%;, and Shawn Caster, as a single man, as to 10%; all as tenants in common
To: Lucky Ducky, LLC, a California Limited Liability Company
Dated: December 18, 2009
Recording Date: January 7, 2010
Recording No.: Instrument No. 2010-0008177, of Official Records

For insurance purposes, the Company is not willing to divest the interest of Dan L. Bernstein and Patricia A. Bernstein, husband and wife, as to 50%; Kristina Valdovinos, a married woman as her sole and separate property, as to 20%; Danielle Bernstein, a married woman as her sole and separate property, as to 20%;, and Shawn Caster, as a single man, as to 10%; all as tenants in common. An Inquiry of the parties shall be required.

In order to complete this report, this Company requires a completed statement of information and an Affidavit for and Uninsured Deed, (signed and notarized by a Notary Public different from the one who notarized the deed shown above) from the following parties:

Party(s): Dan L. Bernstein and Patricia A. Bernstein, husband and wife, as to 50%; Kristina Valdovinos, a married woman as her sole and separate property, as to 20%; Danielle Bernstein, a married woman as her sole and separate property, as to 20%;, and Shawn Caster, as a single man, as to 10%; all as tenants in common

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

EXCEPTIONS
(Continued)

11. The Company will require the following documents for review prior to the issuance of any title assurance predicated upon a conveyance or encumbrance from the entity named below:

Limited Liability Company: Lucky Ducky, LLC

- a) A copy of its operating agreement, if any, and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member
- b) If a domestic Limited Liability Company, a copy of its Articles of Organization and all amendments thereto with the appropriate filing stamps
- c) If the Limited Liability Company is member-managed, a full and complete current list of members certified by the appropriate manager or member
- d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence, satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin
- e) If less than all members, or managers, as appropriate, will be executing the closing documents, furnish evidence of the authority of those signing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

12. In order to complete this report, the Company requires a Statement of Information to be completed by the following party(s),

Party(s): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement of Information.

NOTE: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file.

13. Your application for title insurance was placed by reference to only a street address or tax identification number. Based on our records, we believe that the legal description in this report covers the parcel(s) of Land that you requested. If the legal description is incorrect, the seller/borrower must notify the Company and/or the settlement company in order to prevent errors and to be certain that the correct parcel(s) of Land will appear on any documents to be recorded in connection with this transaction and on the policy of title insurance.

END OF ITEMS

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

NOTES

1. Note: The current owner does NOT qualify for the \$20.00 discount pursuant to the coordinated stipulated judgments entered into actions filed by both the Attorney General and private class action plaintiff for the herein described Land.
 2. None of the items shown in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an Extended Coverage Loan Policy, when issued.
 3. Note: The Company is not aware of any matters which would cause it to decline to attach CLTA Endorsement Form 116 indicating that there is located on said Land Single Family Dwelling, known as 41554 Stone Bridge Road, Big Bear Lake, California to an Extended Coverage Loan Policy.
 4. Unless this company is in receipt of WRITTEN instructions authorizing a particular policy, Fidelity Title will AUTOMATICALLY issue the American Land Title Association Homeowner's Policy (02/03/2010) for all qualifying residential 1-4 properties/transactions to insure the buyer at the close of escrow.
 5. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
-
6. Note: Property taxes for the fiscal year shown below are PAID. For proration purposes the amounts were:

| | |
|-------------------------|-------------------|
| Tax Identification No.: | 0309-351-18-0-000 |
| Fiscal Year: | 2013-2014 |
| 1st Installment: | \$2,350.99 Paid |
| 2nd installment: | \$2,350.94 Paid |
| Exemption: | \$0.00 |
| Land: | \$116,697.00 |
| Improvements: | \$245,068.00 |
| Code Area: | 017-018 |
| Personal Property: | \$0.00 |
| Bill No.: | 130247486 |
 7. If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
 8. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third party service. If the above requirements cannot be met, please call the Company at the number provided in this report
 9. Amended Civil Code Section 2941, which becomes effective on January 1, 2002, sets the fee for the processing and recordation of the reconveyance of each Deed of Trust being paid off through this transaction at \$45.00. The reconveyance fee must be clearly set forth in the Beneficiary's Payoff Demand Statement ("Demand"). In addition, an assignment or authorized release of that fee, from the Beneficiary to the Trustee of record, must be included. An example of the required language is as follows:
-

PRELIMINARY REPORT
YOUR REFERENCE:

Fidelity National Title Company
ORDER NO.: 00064707-997-OC1-DT

NOTES
(Continued)

The Beneficiary identified above hereby assigns, releases or transfers to the Trustee of record, the sum of \$45.00, included herein as 'Reconveyance Fees', for the processing and recordation of the Reconveyance of the Deed of Trust securing the indebtedness covered hereby, and the escrow company or title company processing this pay-off is authorized to deduct the Reconveyance Fee from this Demand and forward said fee to the Trustee of record or the successor Trustee under the Trust Deed to be paid off in full.

In the event that the reconveyance fee and the assignment, release or transfer are not included within the demand statement, then Fidelity National Title Insurance Company and its Underwritten Agent may decline to process the reconveyance and will be forced to return all documentation directly to the Beneficiary for compliance with the requirements of the revised statute.

10. The RESPA Rule to Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Cost includes a provision for average charges, allowing settlement service providers to establish an average recording fee. Transactions opening after May 1, 2014; the average recording charge for all residential loan transactions (including refinances) is \$85.00 and the charge for all residential sale transactions with a purchase money loan is \$85.00. Divide the average between the buyer and seller as per contract or local custom. The average charge is applied regardless of the number of documents recorded in the transaction, the number of pages in each document or the actual recording charges. If your transaction is not a residential loan or sale with a new loan, please contact your title professional for the actual recording charges.

11. Note: Part of the RESPA Rule to simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs requires the settlement agent to disclose the agent and underwriter split of title premiums, including endorsements as follows:

Line 1107 is used to record the amount of the total title insurance premium, including endorsements, that is retained by the title agent. Fidelity National Title Company retains 88% of the total premium and endorsements.

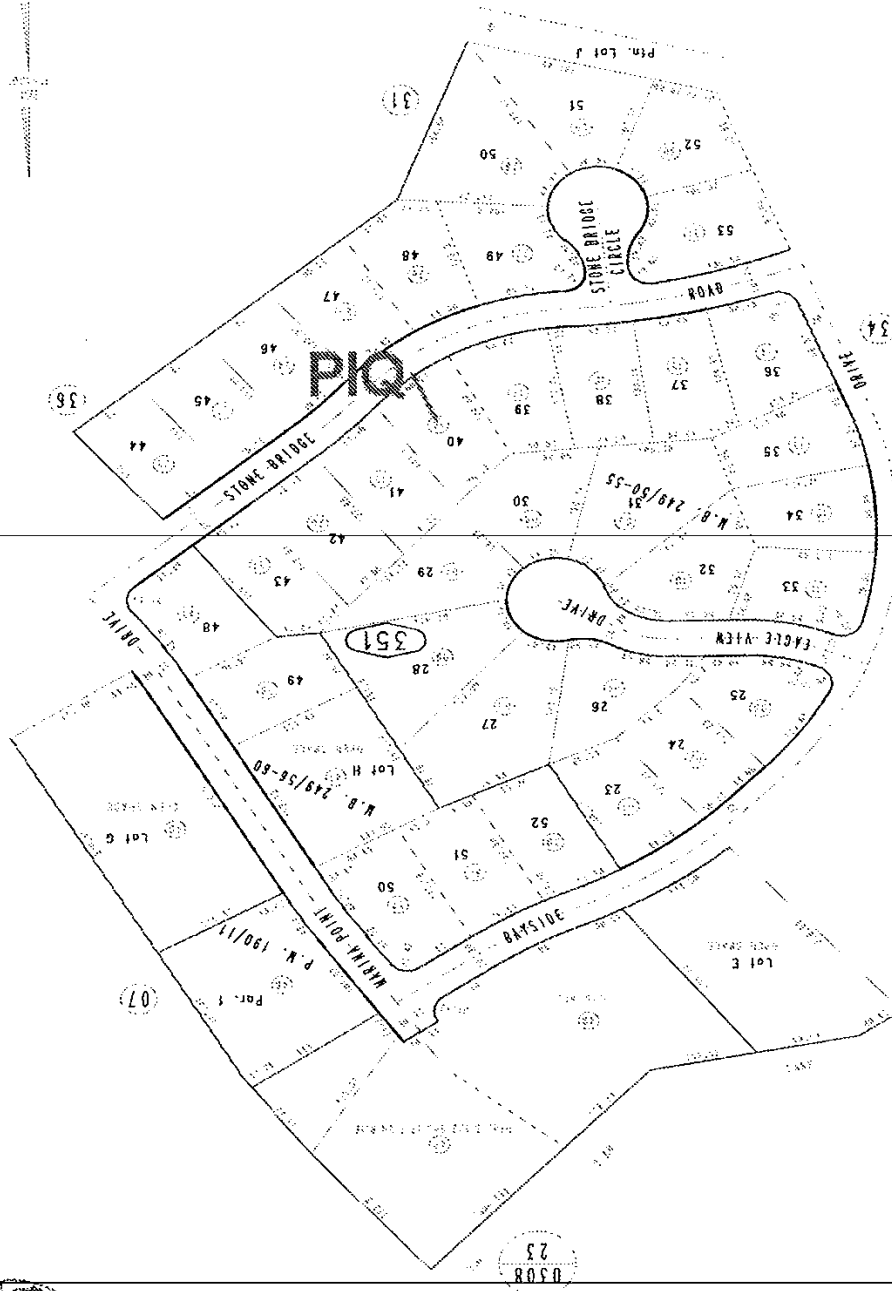
Line 1108 used to record the amount of the total title insurance premium, including endorsements, that is retained by the title underwriter. Fidelity National Title Insurance Company retains 12% of the total premium and endorsements.

END OF NOTES

City of Big Bear Lake 0309-35
Tax Rate Area
17018

Ptn. S.E.1/4, Sec.17, T.2N.,R.1E., S.B.B.&M.

PLAT NO. 0309-35
BOOK 0309-35



Assessor's Map
Book 0309 Page 35
San Bernardino County

PLAT NO. 0309-35
BOOK 0309-35
Ptn. S.E.1/4, Sec.17, T.2N.,R.1E., S.B.B.&M.

er 2003

Fidelity National Title Company
This plat is for your aid in locating your land with reference
to streets and other parcels. While this plat is believed to be
correct, the Company assumes no liability for any loss
occurring by reason of reliance thereon.

Subj: **Document Delivery Notice - Order #18 840 990 Ref 1: 00064707 Ref 2: 41554 Stone Bridge Road,
Big Bear Lake CA 92315**
Date: 6/3/2014 8:37:01 A.M. Pacific Daylight Time
From: Cindee.Sakaguchi@fnf.com
To: lidopacmgt@aol.com



**FIDELITY NATIONAL TITLE
INSURANCE COMPANY**

DOCUMENT DELIVERY NOTICE

Please click on the attachment(s) above to access your documents.

prelim 64707

This transaction involves:

Opened Date: **Friday, May 30 2014 8:24 AM PT**
Project Name:
Customer Ref: **00064707**
Property: **41554 Stone Bridge Road, Big Bear Lake CA 92315**
Buyer:
Seller: **Lucky Ducky LLC**
00064707
External Order Number: **00064707**
Internal Order Number: **18 840 990**

NOTICE: The information contained in this message is proprietary and/or confidential and may be privileged. If you are not the intended recipient of this communication, you are hereby notified to: (i) delete the message and all copies; (ii) do not disclose, distribute or use the message in any manner; and (iii) notify the sender immediately.

Tuesday, June 03, 2014 AOL: lidopacmgt

EXHIBIT 2



Fidelity National Title Company

PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, Fidelity National Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California Corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Countersigned by:

Authorized Signature



BY President
ATTEST Secretary

Authorized Signature

EXHIBIT 3



CALIFORNIA
ASSOCIATION
OF REALTORS®

COUNTER OFFER NO. ONE

For use by Seller or Buyer. May be used for Multiple Counter Offer.
(C.A.R. Form CO, Revised 11/10)

In re Bernstein, Daniel/Patricia Chapter 7 Bk. #6:12-31622 WJ

Date July 2, 2014

This is a counter offer to the: ☐ California Residential Purchase Agreement, ☐ Counter Offer No. _____ or ☐ Other _____ ("Offer"),
dated June 26, 2014, on property known as 41554 Stonebridge Rd., Big Bear, CA 92315 ("Property"),
between Paul/Jill Zamoyta ("Buyer") and Lynda I. Bui, Chap. 7 Trustee ("Seller").

1. **TERMS:** The terms and conditions of the above referenced document are accepted subject to the following:
- Paragraphs in the Offer that require initials by all parties, but are not initialed by all parties, are excluded from the final agreement unless specifically referenced for inclusion in paragraph 1C of this or another Counter Offer.
 - Unless otherwise agreed in writing, down payment and loan amount(s) will be adjusted in the same proportion as in the original Offer.
 - OTHER TERMS:**
 - Sale subject to Bankruptcy Court approval and overbid.
 - Property is being sold in AS IS condition with no Expressed/Implied warranties.
 - Escrow to be with A&A Escrow, Beverly Hills. Title insurance with Fidelity title.
 - Seller will not provide termite report or clearance.
 - Seller does not accept page seven, paragraphs 25 & 26.
 - Seller will not pay for any loan fees, points or any other costs for buyer loan.
 - Seller does not accept page two, paragraph 4(B)(1).
 - The following attached addenda are incorporated into this Counter Offer: ☐ Addendum No. _____
☐ _____
2. **RIGHT TO ACCEPT OTHER OFFERS:** If this is a Seller Counter Offer, (i) Seller has the right to continue to offer the Property for sale or for another transaction, and to accept any other offer at any time prior to Acceptance, as described in paragraph 3 and (ii) Seller's acceptance of another offer prior to Buyer's Acceptance of this Counter Offer, shall revoke this Counter Offer.
3. **EXPIRATION:** This Counter Offer shall be deemed revoked and the deposits, if any, shall be returned unless this Counter Offer is signed by the Buyer or Seller to whom it is sent and a Copy of the signed Counter Offer is personally received by the person making this Counter Offer or by Richard Halderman Jr., who is authorized to receive it, by 5:00 PM on the third Day After the later date specified in paragraph 5 or, (if checked) by ☐ _____ (date), at _____ AM/PM. This Counter Offer may be executed in counterparts.

4. ☐ (if checked) **MULTIPLE COUNTER OFFER:** Seller is making a Counter Offer(s) to another prospective buyer(s) on terms that may or may not be the same as in this Counter Offer. Acceptance of this Counter Offer by Buyer shall not be binding unless and until it is subsequently re-signed by Seller in paragraph 7 below and a Copy of the Counter Offer Signed in paragraph 7 is personally received by Buyer or by _____, who is authorized to receive it, by 5:00 PM on the third Day After the later date specified in paragraph 5 or, (if checked) by ☐ _____ (date), at _____ AM/PM. Prior to the completion of all of these events, Buyer and Seller shall have no duties or obligations for the purchase or sale of the Property. **NOTE TO SELLER:** Sign and date in paragraph 5 to make this Counter Offer.

5. ☒ **OFFER: BUYER OR SELLER MAKES THIS COUNTER OFFER ON THE TERMS ABOVE AND ACKNOWLEDGES RECEIPT OF A COPY.**
Lynda I. Bui, Chapter 7 Trustee Date July 2, 2014

6. **ACCEPTANCE:** I/WE accept the above Counter Offer (if checked ☐ **SUBJECT TO THE ATTACHED COUNTER OFFER**) and acknowledge receipt of a Copy.
Date _____ Time _____ AM/PM
Date _____ Time _____ AM/PM

7. **MULTIPLE COUNTER OFFER SIGNATURE LINE:** By signing below, Seller accepts this Multiple Counter Offer. **NOTE TO SELLER:** Do NOT sign in this box until after Buyer signs in paragraph 6. (Paragraph 7 applies only if paragraph 4 is checked.)
Date _____ Time _____ AM/PM
Date _____ Time _____ AM/PM

8. ☒ (Initials) **Confirmation of Acceptance:** A Copy of Signed Acceptance was personally received by the maker of the Counter Offer, or that person's authorized agent as specified in paragraph 3 (or, if this is a Multiple Counter Offer, the Buyer or Buyer's authorized agent as specified in paragraph 4) on (date) _____ at _____ AM/PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by the maker of the Counter Offer, or that person's authorized agent (or, if this is a Multiple Counter Offer, the Buyer or Buyer's authorized agent) whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Acceptance has occurred.

This agreement form of the United States (Title 17 U.S. Code) is the unaltered reproduction of this form, or any portion thereof, by photocopy, machine, or any other means, including electronic or computerized means. Copyright © 1999-2010, CALIFORNIA ASSOCIATION OF REALTORS®, INC. ALL RIGHTS RESERVED.

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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525 South Virgil Avenue, Los Angeles, California 90030

Reviewed by _____ Date _____



CO REVISED 11/10 (PAGE 1 OF 1) Print Date 01 Jan 13

DocuSign Envelope ID: 8259708C-5181-4E00-84A1-98324BC143C2



CALIFORNIA
ASSOCIATION
OF REALTORS®

**CALIFORNIA
RESIDENTIAL PURCHASE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

For Use With Single Family Residential Property — Attached or Detached
(C.A.R. Form RPA-CA, Revised 4/13)

Date June 26, 2014

1. OFFER:

- A. THIS IS AN OFFER FROM Paul Zamoyta, Jill Zamoyta ("Buyer").
B. THE REAL PROPERTY TO BE ACQUIRED is described as 41554 Stonebridge, Big Bear Lake, CA 92315,
Assessor's Parcel No. 0309-351-18, situated in
Big Bear Lake, County of San Bernardino, California, ("Property").
C. THE PURCHASE PRICE offered is Four Hundred Eighty-One Thousand Dollars \$ 481,000.00.
D. CLOSE OF ESCROW shall occur on 30 days or sooner (date) (or ☐ Days After Acceptance).

2. AGENCY:

- A. DISCLOSURE: Buyer and Seller each acknowledge prior receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer representation agreement or separate document (C.A.R. Form DA). Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties of interest to this Buyer.
C. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:
Listing Agent Sotheby's Realty - Wheeler Steffen (Print Firm Name) is the agent of (check one): ☐ the Seller exclusively; or ☒ both the Buyer and Seller.
Selling Agent Sotheby's Realty - Wheeler Steffen (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): ☐ the Buyer exclusively; or ☐ the Seller exclusively; or ☒ both the Buyer and Seller. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 14,400.00.
(1) Buyer shall deliver deposit directly to Escrow Holder by personal check, ☐ electronic funds transfer, ☐ other _____ within 3 business days after acceptance (or ☐ Other _____);
OR (2) (If checked) ☐ Buyer has given the deposit by personal check (or ☐ _____) to the agent submitting the offer (or to ☐ _____), made payable to _____. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder (or ☐ into Broker's trust account) within 3 business days after Acceptance (or ☐ Other _____).
B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ _____ within _____ Days After Acceptance, or ☐ _____.
If a liquidated damages clause is incorporated into this Agreement, Buyer and Seller shall sign a separate liquidated damages clause (C.A.R. Form RID) for any increased deposit at the time it is Delivered.

C. LOAN(S):

- (1) FIRST LOAN: In the amount of \$ 355,000.00.
This loan will be conventional financing or, if checked, ☐ FHA, ☐ VA, ☐ Seller (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form PAA), ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.
(2) ☐ SECOND LOAN: In the amount of \$ _____.
This loan will be conventional financing or, if checked, ☐ Seller (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form PAA), ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified above, Buyer has 17 (or ☐ _____) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless otherwise agreed in writing.

D. ADDITIONAL FINANCING TERMS: _____

E. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 111,600.00 to be deposited with Escrow Holder within sufficient time to close escrow.

F. PURCHASE PRICE (TOTAL): \$ 481,000.00

Buyer's Initials (PZ) (JE)

(4) Seller's Initials ([Signature]) (_____)



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Reviewed by _____ Date _____

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 1 OF 8)

Agent: Paul Zamoyta Phone: (909) 557-8285 Fax: (909) 368-0720 Prepared using zipForm® software
Broker: Premier Properties/Sotheby's International Realty, PO Box 8041 Big Bear Lake, CA 92315

DocuSign Envelope ID: 8259708C-5181-4E00-84A1-98324BC143C2

41554 Stonebridge
Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

G. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to 3H(1)) shall, within 7 (or ☐) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (If checked, ☐ verification attached.)

H. LOAN TERMS:

(1) LOAN APPLICATIONS: Within 7 (or ☐) Days After Acceptance, Buyer shall Deliver to Seller a letter from lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in 3C above. (If checked, ☐ letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Obtaining the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. Buyer's contractual obligations to obtain and provide deposit, balance of down payment and closing costs are not contingencies of this Agreement.

(3) LOAN CONTINGENCY REMOVAL:

(i) Within 17 (or ☐) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing remove the loan contingency or cancel this Agreement;

OR (ii) (If checked) ☐ the loan contingency shall remain in effect until the designated loans are funded.

(4) ☐ NO LOAN CONTINGENCY (If checked): Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

I. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (or, if checked, ☐ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the specified purchase price. If there is a loan contingency, Buyer's removal of the loan contingency shall be deemed removal of this appraisal contingency (or, ☐ If checked, Buyer shall, as specified in paragraph 14B(3), in writing remove the appraisal contingency or cancel this Agreement within 17 (or ☐) Days After Acceptance). If there is no loan contingency, Buyer shall, as specified in paragraph 14B(3), in writing remove the appraisal contingency or cancel this Agreement within 17 (or ☐) Days After Acceptance.

J. ☐ ALL CASH OFFER (If checked): Buyer shall, within 7 (or ☐) Days After Acceptance, Deliver to Seller written verification of sufficient funds to close this transaction. (If checked, ☐ verification attached.)

K. BUYER STATED FINANCING: Seller has relied on Buyer's representation of the type of financing specified (including but not limited to, as applicable, amount of down payment, contingent or non contingent loan, or all cash). If Buyer seeks alternate financing, (i) Seller has no obligation to cooperate with Buyer's efforts to obtain such financing, and (ii) Buyer shall also pursue the financing method specified in this Agreement. Buyer's failure to secure alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. ALLOCATION OF COSTS (If checked): Unless otherwise specified here, in writing, this paragraph only determines who is to pay for the inspection, test or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.

A. INSPECTIONS AND REPORTS:

(1) ☐ Buyer ☐ Seller shall pay for an inspection and report for wood destroying pests and organisms ("Wood Pest Report") prepared by a registered structural pest control company.

(2) ☐ Buyer ☐ Seller shall pay to have septic or private sewage disposal systems inspected _____.

(3) ☐ Buyer ☐ Seller shall pay to have domestic wells tested for water potability and productivity _____.

(4) ☐ Buyer ☒ Seller shall pay for a natural hazard zone disclosure report prepared by any reliable _____.

(5) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____.

(6) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____.

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ☐ Buyer ☒ Seller shall pay for smoke detector installation and/or water heater bracing. If required by Law. Prior to Close Of Escrow, Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless exempt.

(2) ☐ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards, inspections and reports if required as a condition of closing escrow under any Law. _____.

C. ESCROW AND TITLE:

(1) ☒ Buyer ☒ Seller shall pay escrow fee each pays own shares _____.
Escrow Holder shall be _____.

(2) ☐ Buyer ☒ Seller shall pay for owner's title insurance policy specified in paragraph 12E _____.
Owner's title policy to be issued by seller's choice _____.
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

(1) ☐ Buyer ☒ Seller shall pay County transfer tax or fee _____.

(2) ☐ Buyer ☐ Seller shall pay City transfer tax or fee _____.

(3) ☐ Buyer ☐ Seller shall pay Homeowner's Association ("HOA") transfer fee _____.

(4) ☐ Buyer ☐ Seller shall pay HOA document preparation fees _____.

(5) ☐ Buyer ☐ Seller shall pay for any private transfer fee _____.

(6) ☐ Buyer ☐ Seller shall pay the cost, not to exceed \$ _____, of a one-year home warranty plan,

issued by _____, with the following optional coverages:

☐ Air Conditioner ☐ Pool/Spa ☐ Code and Permit upgrade ☐ Other: _____

Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

(7) ☐ Buyer ☐ Seller shall pay for _____.

(8) ☐ Buyer ☐ Seller shall pay for _____.

Buyer's Initials (PE) (JE)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 2 OF 8)

SUBJECT TO COUNTER OFFER
Seller's Initials (AD) (_____)
Reviewed by _____ Date _____



Zamoyta -

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41554 Stonebridge

Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

5. CLOSING AND POSSESSION:

- A. Buyer intends (or ☐ does not intend) to occupy the Property as Buyer's primary residence.
- B. Seller-occupied or vacant property: Possession shall be delivered to Buyer at 5 PM or (☐ AM ☐ PM) on the date of Close Of Escrow; ☐ on _____; or ☐ no later than _____ Days After Close Of Escrow. If transfer of title and possession do not occur at the same time, Buyer and Seller are advised to; (i) enter into a written occupancy agreement (C.A.R. Form PAA, paragraph 2); and (ii) consult with their insurance and legal advisors.
- C. Tenant-occupied property: (i) Property shall be vacant at least 5 (or ☐ _____) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.

OR (ii) (if checked) ☐ Tenant to remain in possession. (C.A.R. Form PAA, paragraph 3)

- D. At Close Of Escrow, (i) Seller assigns to Buyer any assignable warranty rights for items included in the sale, and (ii) Seller shall Deliver to Buyer available Copies of warranties. Brokers cannot and will not determine the assignability of any warranties.
- E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or means to operate all locks, mailboxes, security systems, alarms and garage door openers. If Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

6. STATUTORY DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer, if required by Law: (i) Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mollo-Roos Community Facilities Act and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or SSD).
- (2) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory and Lead Disclosures to Seller.
- (3) In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.
- (4) If any disclosure or notice specified in 6A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After Delivery in person, or 5 Days After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- (5) Note to Buyer and Seller: Waiver of Statutory and Lead Disclosures is prohibited by Law.
- B. NATURAL AND ENVIRONMENTAL HAZARDS: Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; (ii) even if exempt from the obligation to provide a NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. WITHHOLDING TAXES: Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
- D. MEGAN'S LAW DATABASE DISCLOSURE: Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)
- E. NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES: This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov>. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

7. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:

- A. SELLER HAS: 7 (or ☐ _____) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or SSD).
- B. If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or ☐ _____) Days After Acceptance to request from the HOA (C.A.R. Form HOA): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3).

8. ITEMS INCLUDED IN AND EXCLUDED FROM PURCHASE PRICE:

- A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in 8B or C.

B. ITEMS INCLUDED IN SALE:

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, private integrated telephone systems, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water softeners, water purifiers, security systems/alarms; (If checked) ☒ stove(s), ☐ refrigerator(s);

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Buyer's Initials (PE) (JE)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 3 OF 8)

Seller's Initials (AB) (_____)
Reviewed by _____ Date _____



Zamoyta

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41554 Stonebridge
Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

- (3) The following additional items:
(4) Seller represents that all items included in the purchase price, unless otherwise specified, are owned by Seller.
(5) All items included shall be transferred free of liens and without Seller warranty.
- C. **ITEMS EXCLUDED FROM SALE:** Unless otherwise specified, audio and video components (such as flat screen TVs and speakers) are excluded if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component is attached to the Property; and
9. **CONDITION OF PROPERTY:** Unless otherwise agreed: (i) the Property is sold (a) in its PRESENT physical ("as-is") condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.
- A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
- B. Buyer has the right to inspect the Property and, as specified in paragraph 14B, based upon information discovered in those inspections: (i) cancel this Agreement; or (ii) request that Seller make repairs or take other action.
- C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.
10. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms; (iii) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property; and (v) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.
- B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and, either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete copies of all investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
- C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's investigations and through the date possession is made available to Buyer.
- D. Buyer indemnify and Seller protection for entry upon property: Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Nonresponsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.
11. **SELLER DISCLOSURES; ADDENDA; ADVISORIES; OTHER TERMS:**
- A. **Seller Disclosures (If checked):** Seller shall, within the time specified in paragraph 14A, complete and provide Buyer with a:
- | | | |
|--|----|--|
| <input type="checkbox"/> Seller Property Questionnaire (C.A.R. Form SPQ) | OR | <input type="checkbox"/> Supplemental Contractual and Statutory Disclosure (C.A.R. Form SSD) |
| B. Addenda (If checked): | | |
| <input type="checkbox"/> Wood Destroying Pest Inspection and Allocation of Cost Addendum (C.A.R. Form WPA) | | <input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM) |
| <input type="checkbox"/> Purchase Agreement Addendum (C.A.R. Form PAA) | | <input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI) |
| <input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA) | | <input type="checkbox"/> Other _____ |
| C. Advisories (If checked): | | |
| <input type="checkbox"/> Probate Advisory (C.A.R. Form PAK) | | <input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA) |
| <input type="checkbox"/> Trust Advisory (C.A.R. Form TA) | | <input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA) |
| | | <input type="checkbox"/> REO Advisory (C.A.R. Form REO) |
| D. Other Terms: Buyers are licensed California Realtors. | | |
12. **TITLE AND VESTING:**
- A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report, which shall include a search of the General Index. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information. The preliminary report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the preliminary report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B.
- B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except: (i) monetary liens of record unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
- C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.
- E. Buyer shall receive a CLTA/ALTA Homeowner's Policy of Title Insurance. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and pay any increase in cost.

Buyer's Initials (PE) (JE)

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Reviewed by (Signature) Date _____
Seller's Initials (JB) (_____)



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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 4 OF 8)

Zamoya -

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41554 Stonebridge

Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

13. SALE OF BUYER'S PROPERTY:

A. This Agreement is NOT contingent upon the sale of any property owned by Buyer.

OR B. ☐ (If checked): The attached addendum (C.A.R. Form COP) regarding the contingency for the sale of property owned by Buyer is incorporated into this Agreement.

14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS:** 7 (or ☐) Days After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 4, 6A, B and C, 7A, 9A, 11A and B, and 12A. Buyer may give Seller a Notice to Seller to Perform (C.A.R. Form NSP) if Seller has not Delivered the items within the time specified.

B. (1) **BUYER HAS:** 17 (or ☐) Days After Acceptance, unless otherwise agreed in writing, to:

(i) complete all Buyer investigations; approve all disclosures, reports and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and

(ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures Delivered by Seller in accordance with paragraph 6A.

(2) Within the time specified in 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to Buyer's requests.

(3) By the end of the time specified in 14B(1) (or as otherwise specified in this Agreement), Buyer shall, Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in 14A, then Buyer has 5 (or ☐) Days After Delivery of any such item, or the time specified in 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

(4) **Continuation of Contingency:** Even after the end of the time specified in 14B(1) and before Seller cancels, if at all, pursuant to 14C, Buyer retains the right to either (i) in writing remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to 14C(1).

C. SELLER RIGHT TO CANCEL:

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP) may cancel this Agreement. In such event, Seller shall authorize return of Buyer's deposit.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first Delivering to Buyer a NBP may cancel this Agreement for any of the following reasons: (i) if Buyer fails to deposit funds as required by 3A or 3B; (ii) if the funds deposited pursuant to 3A or 3B are not good when deposited; (iii) if Buyer fails to Deliver a notice of FHA or VA costs or terms as required by 3C(3) (C.A.R. Form FVA); (iv) if Buyer fails to Deliver a letter as required by 3H; (v) if Buyer fails to Deliver verification as required by 3G or 3J; (vi) if Seller reasonably disapproves of the verification provided by 3G or 3J; (vii) if Buyer fails to return Statutory and Lead Disclosures as required by paragraph 6A(2); or (viii) if Buyer fails to sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 25. In such event, Seller shall authorize return of Buyer's deposit.

(3) **Notice To Buyer To Perform:** The NBP shall: (i) be in writing; (ii) be signed by Seller; and (iii) give Buyer at least 2 (or ☐) Days After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP may not be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for Buyer to remove a contingency or cancel this Agreement or meet an obligation specified in 14C(2).

D. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES: If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall conclusively be deemed to have: (i) completed all Buyer investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for inability to obtain financing.

E. CLOSE OF ESCROW: Before Seller or Buyer may cancel this Agreement for failure of the other party to close escrow pursuant to this Agreement, Seller or Buyer must first Deliver to the other a demand to close escrow (C.A.R. Form DCE).

F. EFFECT OF CANCELLATION ON DEPOSITS: If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, Buyer and Seller agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Release of funds will require mutual Signed release instructions from Buyer and Seller, judicial decision or arbitration award. A Buyer or Seller may be subject to a civil penalty of up to \$1,000 for refusal to sign such instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).

15. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of receipts and statements to Buyer prior to final verification of condition.

16. FINAL VERIFICATION OF CONDITION: Buyer shall have the right to make a final inspection of the Property within 5 (or ☐) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 8; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

17. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

Buyer's Initials (PE) (JE)

RPA-CA REVISED 4/13 (PAGE 5 OF 8)

SUBJECT TO COUNTER OFFER
(X) Seller's Initials (AS) ()
Reviewed by Date



Zemoyla -

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 5 OF 8)

DocuSign Envelope ID: 8259708C-5181-4E00-84A1-98324BC143C2

41554 Stonabridge

Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

18. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
19. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
20. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
21. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 28A.
22. **DEFINITIONS:** As used in this Agreement:
- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a party and is delivered to and personally received by the other party or that party's authorized agent in accordance with the terms of this offer or a final counter offer.
 - B. "C.A.R. Form" means the specific form referenced or another comparable form agreed to by the parties.
 - C. "Close Of Escrow" means the date the grant deed, or other evidence of transfer of title, is recorded.
 - D. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
 - E. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
 - F. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59PM on the final day.
 - G. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
 - H. "Deliver", "Delivered" or "Delivery", means and shall be effective upon (i) personal receipt by Buyer or Seller or the Individual Real Estate Licensee for that principal as specified in paragraph D of the section titled Real Estate Brokers on page 8, regardless of the method used (i.e. messenger, mail, email, fax, other); OR (ii) if checked, ☐ per the attached addendum (C.A.R. Form RDN).
 - I. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other.
 - J. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
 - K. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
 - L. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
23. **BROKER COMPENSATION:** Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
24. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
- A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: 1, 3, 4, 6C, 11B and D, 12, 13B, 14F, 17, 22, 23, 24, 28, 30 and paragraph D of the section titled Real Estate Brokers on page 8. If a Copy of the separate compensation agreement(s) provided for in paragraph 23, or paragraph D of the section titled Real Estate Brokers on page 8 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provisions upon Escrow Holder's request. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow.
 - B. A Copy of this Agreement shall be delivered to Escrow Holder within 3 business days after Acceptance (or ☐). Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement.
 - C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 23 and paragraph D of the section titled Real Estate Brokers on page 8. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 23, respectively, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement. Escrow Holder shall immediately notify Brokers: (i) if Buyer's Initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
 - D. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 2 business days after mutual execution of the amendment.

SUBJECT TO COUNTER OFFER

Buyer's Initials (PE) (JE)

Seller's Initials (AB) ()
Reviewed by Date

RPA-CA REVISED 4/13 (PAGE 6 OF 8)

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 8)



Zamoyla -

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41554 Stonebridge
Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

25. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Release of funds will require mutual, Signed release Instructions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF THE INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION FOR ANY INCREASED DEPOSIT (C.A.R. FORM RID).

Buyer's Initials PE / JE Seller's Initials AB / 1

26. DISPUTE RESOLUTION:

A. MEDIATION: Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Buyer and Seller also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. Exclusions from this mediation agreement are specified in paragraph 26C.

B. ARBITRATION OF DISPUTES:

Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. Buyer and Seller also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1293.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 26C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials PE / JE Seller's Initials AB / 1

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

(1) **EXCLUSIONS:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver nor violation of the mediation and arbitration provisions.

(2) **BROKERS:** Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.

27. TERMS AND CONDITIONS OF OFFER:

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the above confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

28. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES: Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the laws of the State of California. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.

Buyer's Initials (PE) (JE)

RPA-CA REVISED 4/13 (PAGE 7 OF 8)

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 7 OF 8)

SUBJECT TO COUNTER OFFER
Seller's Initials AB / 1
Reviewed by _____ Date _____



Zamoyta -

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41554 Stonebridge
Property Address: Big Bear Lake, CA 92315

Date: June 26, 2014

29. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit shall be returned unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or, if checked, ☐ AM ☐ PM, on _____ (date)).

Date 06/26/2014 Signed by _____

BUYER Paul Zamoyta
Paul Zamoyta #39ABATE507407
(Print name)

(Address)

Date 06/26/2014 Signed by _____

BUYER Jill Zamoyta
Jill Zamoyta
(Print name)

(Address)

30. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

☒ (If checked) SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form CO) DATED: July 2, 2014

SELLER Truett Lynda T. Bui
(Print name)

SELLER _____
(Print name)

(Address)

SUBJECT TO COUNTER OFFER

(_____) (Initials) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ ☐ AM ☐ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
B. Agency relationships are confirmed as stated in paragraph 2.
C. If specified in paragraph 3A, Agent who submitted the offer for Buyer acknowledges receipt of deposit.
D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow: (i) the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS; or (ii) ☐ (If checked) the amount specified in a separate written agreement (C.A.R. Form CBC) between Listing Broker and Cooperating Broker. Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) Southeby's Realty - Wheeler Steffen BRE Lic. # 00528670
By Paul Zamoyta BRE Lic. # 01495659 Date 06/26/2014
Address POB 6041 City Big Bear Lake State CA Zip 92315
Telephone (909) 557-8285 Fax (909) 366-0720 E-mail info@zamoyta.com

Real Estate Broker (Listing Firm) Southeby's Realty - Wheeler Steffen BRE Lic. # _____
By _____ BRE Lic. # _____ Date _____
Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of \$ _____), counter offer number _____ ☐ Seller's Statement of Information and _____, and agrees to act as Escrow Holder subject to paragraph 24 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder _____ Escrow # _____
By _____ Date _____
Address _____
Phone/Fax/E-mail _____
Escrow Holder is licensed by the California Department of ☐ Corporations, ☐ Insurance, ☐ Real Estate. License # _____

PRESENTATION OF OFFER: (_____) Listing Broker presented this offer to Seller on _____ (date).
Broker or Designee Initials _____

REJECTION OF OFFER: (_____) (_____) No counter offer is being made. This offer was rejected by Seller on _____ (date).
Seller's Initials _____

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REAL ESTATE BUSINESS SERVICES, INC.
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REVISION DATE 4/13

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 8 OF 8)

Reviewed by _____ Date _____
Broker or Designee _____



Zamoyta -

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CALIFORNIA
ASSOCIATION
OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA-A, Revised 10/02)

Property Address: 41554 Stonebridge, Big Bear Lake, CA 92315

("Property").

A. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. For this reason, you should conduct thorough investigations of the Property personally and with professionals who should provide written reports of their investigations. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

B. BUYER RIGHTS AND DUTIES: You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. The purchase agreement gives you the right to investigate the Property. If you exercise this right, and you should, you must do so in accordance with the terms of that agreement. This is the best way for you to protect yourself. It is extremely important for you to read all written reports provided by professionals and to discuss the results of inspections with the professional who conducted the inspection. You have the right to request that Seller make repairs, corrections or take other action based upon items discovered in your investigations or disclosed by Seller. If Seller is unwilling or unable to satisfy your requests, or you do not want to purchase the Property in its disclosed and discovered condition, you have the right to cancel the agreement if you act within specific time periods. If you do not cancel the agreement in a timely and proper manner, you may be in breach of contract.

C. SELLER RIGHTS AND DUTIES: Seller is required to disclose to you material facts known to him/her that affect the value or desirability of the Property. However, Seller may not be aware of some Property defects or conditions. Seller does not have an obligation to inspect the Property for your benefit nor is Seller obligated to repair, correct or otherwise cure known defects that are disclosed to you or previously unknown defects that are discovered by you or your inspectors during escrow. The purchase agreement obligates Seller to make the Property available to you for investigations.

D. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as soil stability, geologic or environmental conditions, hazardous or illegal controlled substances, structural conditions of the foundation or other improvements, or the condition of the roof, plumbing, heating, air conditioning, electrical, sewer, septic, waste disposal, or other system. The only way to accurately determine the condition of the Property is through an inspection by an appropriate professional selected by you. If Broker gives you referrals to such professionals, Broker does not guarantee their performance. You may select any professional of your choosing. In sales involving residential dwellings with no more than four units, Brokers have a duty to make a diligent visual inspection of the accessible areas of the Property and to disclose the results of that inspection. However, as some Property defects or conditions may not be discoverable from a visual inspection, it is possible Brokers are not aware of them. If you have entered into a written agreement with a Broker, the specific terms of that agreement will determine the nature and extent of that Broker's duty to you. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**

E. YOU ARE ADVISED TO CONDUCT INVESTIGATIONS OF THE ENTIRE PROPERTY, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- 1. GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof, plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa, other structural and non-structural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property. (Structural engineers are best suited to determine possible design or construction defects, and whether improvements are structurally sound.)
- 2. SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other natural or constructed barriers or markers do not necessarily identify true Property boundaries. (Professionals such as appraisers, architects, surveyors and civil engineers are best suited to determine square footage, dimensions and boundaries of the Property.)
- 3. WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms and other infestation or infection. Inspection reports covering these items can be separated into two sections: Section 1 identifies areas where infestation or infection is evident. Section 2 identifies areas where there are conditions likely to lead to infestation or infection. A registered structural pest control company is best suited to perform these inspections.
- 4. SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage. (Geotechnical engineers are best suited to determine such conditions, causes and remedies.)

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BIA-A REVISED 10/02 (PAGE 1 OF 2)

Buyer's Initials (PE) (JE)
Seller's Initials (PE) (JE)
Reviewed by _____ Date _____



SUBJECT TO COUNTER OFFER

BUYER'S INSPECTION ADVISORY (BIA-A PAGE 1 OF 2)

Agent: Paul Zamoyla

Phone: (909) 557-8286

Fax: (909) 368-0720

Prepared using zipForm® software

Broker: Premier Properties/Sotheby's International Realty, PO Box 6041 Big Bear Lake, CA 92315

DocuSign Envelope ID: 8259708C-5181-4E00-84A1-98324BC143C2

Property Address: 41554 Stonebridge, Big Bear Lake, CA 92315

Date: June 26, 2014

5. **ROOF:** Present condition, age, leaks, and remaining useful life. (Roofing contractors are best suited to determine these conditions.)
6. **POOL/SPA:** Cracks, leaks or operational problems. (Pool contractors are best suited to determine these conditions.)
7. **WASTE DISPOSAL:** Type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.
8. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components.
9. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants). (For more information on these items, you may consult an appropriate professional or read the booklets "Environmental Hazards: A Guide for Homeowners, Buyers, Landlords and Tenants," "Protect Your Family From Lead in Your Home" or both.)
10. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood. (A Geologist or Geotechnical Engineer is best suited to provide information on these conditions.)
11. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies. (An insurance agent is best suited to provide information on these conditions.)
12. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size. (Such information is available from appropriate governmental agencies and private information providers. Brokers are not qualified to review or interpret any such information.)
13. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants; and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements. (Government agencies can provide information about these restrictions and other requirements.)
14. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property. Compliance requirements differ from city to city and county. Unless specifically agreed, the Property may not be in compliance with these requirements. (Local government agencies can provide information about these restrictions and other requirements.)
15. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, the proximity of registered felons or offenders, fire protection, other government services, availability, adequacy and cost of any speed-wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (x) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

By signing below, Buyer and Seller each acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyer is encouraged to read it carefully.

Paul Zamoyta

6/26/2014

Buyer Signature

Date

DocuSigned by:

Jill Zamoyta

6/26/2014

Buyer Signature

Date

Paul Zamoyta

Seller Signature

Date

Trustee Lynda T. Bui

Seller Signature

Date

SUBJECT TO COUNTER OFFER

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL. This form is available for use by the entire real estate industry. It is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by members of the NATIONAL ASSOCIATION OF REALTORS® who subscribe to its Code of Ethics.



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BIA-A REVISED 10/02 (PAGE 2 OF 2)

BUYER'S INSPECTION ADVISORY (BIA-A PAGE 2 OF 2)

Reviewed by _____ Date _____



Zamoyta

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CALIFORNIA
ASSOCIATION
OF REALTORS®

**DISCLOSURE REGARDING
REAL ESTATE AGENCY RELATIONSHIP**

(Selling Firm to Buyer)
(As required by the Civil Code)
(C.A.R. Form AD, Revised 11/12)

☐ (If checked) This form is being provided in connection with a transaction for a leaseholder interest in a dwelling exceeding one year as per Civil Code section 2079.13(j) and (l).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).

☒ Buyer ☐ Seller ☐ Landlord ☐ Tenant Paul Zamoyta Date 06/26/2014

☒ Buyer ☐ Seller ☐ Landlord ☐ Tenant Jill Zamoyta Date 06/26/2014

Agent Sotheby's Realty - Wheeler Station BRE Lic. # 00528670
Real Estate Broker (Firm)

By Paul Zamoyta BRE Lic. # 01495659 Date 06/26/2014
(Salesperson or Broker-Associate)

Agency Disclosure Compliance (Civil Code §2079.14):

- When the listing brokerage company also represents Buyer/Tenant: The Listing Agent shall have one AD form signed by Seller/Landlord and a different AD form signed by Buyer/Tenant.
- When Seller/Landlord and Buyer/Tenant are represented by different brokerage companies: (i) the Listing Agent shall have one AD form signed by Seller/Landlord and (ii) the Buyer's/Tenant's Agent shall have one AD form signed by Buyer/Tenant and either that same or a different AD form presented to Seller/Landlord for signature prior to presentation of the offer. If the same form is used, Seller may sign here:

Tracie Lynda T. Bul Date 6-26-14 Seller/Landlord Date

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AD REVISED 11/12 (PAGE 1 OF 2)

SUBJECT TO COUNTER OFFER

Reviewed by _____ Date _____



DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (AD PAGE 1 OF 2)

Agent: Paul Zamoyta Phone: (909) 557-8285 Fax: (909) 366-0720 Prepared using zipForm® software
Broker: Premier Properties/Sotheby's International Realty, PO Box 6041 Big Bear Lake, CA 92315

DocuSign Envelope ID: 8269708C-5181-4E00-84A1-983248C143C2

CIVIL CODE SECTIONS 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13 As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. (b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensee who performs as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions. (c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee. (d) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction. (e) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer. (f) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation. (g) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent. (h) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. (i) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller. (j) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property which constitutes or is improved with one or four dwelling units, any leasehold in this type of property exceeding one year's duration, and mobile homes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. (k) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase. (l) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. (m) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor. (n) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller. (o) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2348) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows: (a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. (b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a). (c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required. (d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15 In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17 (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. (b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form.

(DO NOT COMPLETE, SAMPLE ONLY) _____ is the agent of (check one): ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Listing Agent)

(DO NOT COMPLETE, SAMPLE ONLY) _____ is the agent of (check one): ☐ the buyer exclusively; or ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Selling Agent if not the same as the Listing Agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18 No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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AD REVISED 11/12 (PAGE 2 OF 2)

OBJECT TO COUNTER OFFER

Reviewed by _____ Date _____

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (AD PAGE 2 OF 2)



EXHIBIT 4

JACK POPE
P.O. BOX 2167
YUCCA VALLEY, CA 92286
PHONE 760-365-7887 FAX 760-365-3558
EMAIL: jackpope1@aol.com

7/5/2014

Lynda Bui
3750 University Ave. Suite 670
Riverside, CA 92501

Re: Bernstein

Bill:

41554 Stonebridge Rd Big Bear City, CA 92315
Clean Roof & Gutter out/Repair Gutter/Repair Sprinkler System/Adjust Sprinkler System &
Stain entire Rail Fence

7/3/2014

| | |
|--|----------------|
| Travel time and clean up/ fix up time | |
| Jack Pope 8 hours X \$80 per hour | \$640.00 |
| Franisco 8 hours X \$15 per hour | \$120.00 |
| Daniel 8 hours X \$15 per hour | \$120.00 |
| Pasquel 8 hours X \$15 per hour | \$120.00 |
| Truck and Trailer | \$150.00 |
| Material to stain fence & fix gutter& fix sprinkler sy | <u>\$75.00</u> |
| | \$1,225.00 |

Jack Pope
Agent

JACK POPE
P.O. BOX 2167
YUCCA VALLEY, CA 92286
PHONE 760-365-7887 FAX 760-365-3558
EMAIL: jackpope1@aol.com

6/26/2014

Lynda Bui
3750 University Ave. Suite 670
Riverside, CA 92501

Re: Bernstein

Bill:

Cleaned up property & house @ 41554 Stonebridge Rd Big Bear City, CA 92315
Cleaned up property outside, put Dicks sign back up, hauled off all debris.
Cleaned up house and garage, unclogged toilets, fixed fence. Pictures attached.

6/26/2014

| | |
|------------------------------------|-----------------|
| Travel time and clean up time | |
| Jack Pope 11 hours X \$80 per hour | \$880.00 |
| Rosemary 11 hours X \$30 per hour | \$330.00 |
| Franisco 11 hours X \$15 per hour | \$165.00 |
| Barbara 11 hours X \$15 per hour | \$165.00 |
| Susan 11 hours X \$15 per hour | \$165.00 |
| Truck and Trailer | \$150.00 |
| Dump Fees | <u>\$111.00</u> |
| | \$1,966.00 |

Jack Pope
Agent

EXHIBIT 5

Trustee Insurance Agency

EXHIBIT 6

Receipt# 38895 6/25/2014 11:21:09 AM
Dept. of Water-City of Big Bear Lake

BBLDWP.COM
(909) 866-5050

013017000
LUCKY DUCKY LLC
41554 STONE BRIDGE

| | |
|-------------------|----------|
| Check #8911 | \$183.48 |
| Total Tendered: | \$183.48 |
| Previous Balance: | \$183.48 |
| Credited to UB: | \$183.48 |
| Change Back: | \$0.00 |
| Updated Balance: | \$0.00 |

| | |
|-----------------------------|-----------|
| Credited to UB: | |
| Service/Res Serv Chg | \$168.48 |
| Penalty | \$15.00 |
| Total: | \$183.48 |
| Cashier: | <i>EP</i> |
| Thank you for your payment. | |

8911
11-35/1210 CA
90095

6-23-2014 Date

ROSEMARY HALDERMAN
RICHARD A HALDERMAN
217 GARNET AVE
BALBOA ISLAND CA 92662-1010

Dept. of Water - City of Big Bear Lake \$183.48
One Hundred Eighty Three and 48/100 Dollars



Valued Customer
over 30 years

Bank of America

ACH RT 12100358 013017000

For Water Svc - 41554 Stone bridge

Halderman Clarke

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
8105 Irvine Center Drive, Suite 600, Irvine CA 92618

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 8/12/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) 8/12/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 8/12/2014, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

PERSONAL DELIVERY: Honorable Wayne Johnson, USBC/Central, 3420 Twelfth St., Bin beside Crtrm 304, Riverside CA 92501

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

8/12/2014
Date

Laurie Verstegen
Printed Name

/s/Laurie Verstegen
Signature

PROOF OF SERVICE (cont'd)

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Lynda T. Bui (TR)
trustee.bui@shbllp.com, C115@ecfcbis.com

Lynda T. Bui (TR) on behalf of Trustee Lynda T. Bui (TR)
trustee.ltranbui@shbllp.com, C115@ecfcbis.com

Michael J Bujold on behalf of U.S. Trustee United States Trustee (RS)
Michael.J.Bujold@usdoj.gov

Merdaud Jafarnia on behalf of Creditor Ocwen Loan Servicing, LLC, its assignees and/or successors
bknotice@mccarthyholthus.com, mjafarnia@mccarthyholthus.com

Robert A Kumin on behalf of Creditor Hallmark Marketing Company, LLC
rkumin@kuminlaw.com

Robert A Kumin on behalf of Plaintiff Hallmark Marketing Company, LLC a Kansas limited liability
company
rkumin@kuminlaw.com

Melissa Davis Lowe on behalf of Plaintiff Lynda T Bui
mdavis@shbllp.com

Melissa Davis Lowe on behalf of Trustee Lynda T. Bui (TR)
mdavis@shbllp.com

Anthony J Napolitano on behalf of Creditor California Bank & Trust
anapolitano@buchalter.com, IFS_filing@buchalter.com

Rosemary Nguyen on behalf of Interested Party Courtesy NEF
bknotice@rcolegal.com

Robert L Rentto on behalf of Creditor Hallmark Marketing Company, LLC
rentto@sbcglobal.net

Robert L Rentto on behalf of Plaintiff Hallmark Marketing Company, LLC a Kansas limited liability
company
rentto@sbcglobal.net

Leonard M Shulman on behalf of Plaintiff Lynda T Bui
lshulman@shbllp.com

Leonard M Shulman on behalf of Trustee Lynda T. Bui (TR)
lshulman@shbllp.com

Arthur F Stockton on behalf of Debtor Dan Louis Bernstein
art@stocktonlawoffices.com, stockton.thornton@gmail.com

Arthur F Stockton on behalf of Defendant Dan Louis Bernstein
art@stocktonlawoffices.com, stockton.thornton@gmail.com

Arthur F Stockton on behalf of Defendant Patricia Aileen Bernstein
art@stocktonlawoffices.com, stockton.thornton@gmail.com

Arthur F Stockton on behalf of Joint Debtor Patricia Aileen Bernstein
art@stocktonlawoffices.com, stockton.thornton@gmail.com

United States Trustee (RS)
ustpreion16.rs.ecf@usdoj.gov